

CASE NO. 19-4089

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff – Appellee,

v.

RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC.,
LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON,
Defendants,

BLACK NIGHT ENTERPRISES, INC., N.P. JOHNSON FAMILY L.P., SOLCO
I, LLC, SOLSTICE ENTERPRISES, INC., STARLIGHT HOLDINGS, INC., and
XSUN ENERGY, LLC

Non-Party Appellants.

On Interlocutory Appeal from the United States District Court, District of Utah,
Central Division, The Honorable Judge David Nuffer
D.C. No. 2:15-cv-00828-DN

APPELLANTS' APPENDIX

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that in each appendices volume: 1) all required privacy redactions have been made; 2) the ECF submission is an exact copy of any hard copies that were filed (if any); and 3) the digital submission has been scanned for viruses with the most recent version of a commercial virus scanning program, Windows Defender, and according to the program are free from viruses. I further certify that the information on this form is true and correct to the best of my ability and belief formed after a reasonable inquiry.

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that Appellant's Appendix complies with 10th Cir. R. 25.5 and all privacy redactions required have been made. The undersigned counsel certifies that paper copies submitted are or will be exact copies of the electronic version.

/s/ Denver C. Snuffer, Jr.

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US District Court Electronic Case Filing System
District of Utah (Central)
CIVIL DOCKET FOR CASE #: 2:15-cv-00828-DN-EJF

USA v. RaPower-3 et al
Assigned to: Judge David Nuffer
Referred to: Magistrate Judge Evelyn J. Furse
Case in other court: Tenth, 18-04119
Tenth, 18-04150
Tenth, 19-04066
Tenth, 19-04089
Cause: 26:7402(a) IRS: Jurisdiction of District Courts

Date Filed: 11/23/2015
Date Terminated: 10/04/2018
Jury Demand: Defendant
Nature of Suit: 870 Taxes
Jurisdiction: U.S. Government Plaintiff

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Date Filed	#	Docket Text
11/23/2015	1	Case has been indexed and assigned to Judge David Nuffer. Plaintiff USA is directed to E-File the complaint and cover sheet (found under Complaints and Other Initiating Documents) by the end of the business day. Filing Fee waived (USA) NOTE: The court will not have jurisdiction until the opening document is electronically filed and the filing fee paid in the CM/ECF system. Civil Summons may be issued electronically. Prepare the summons using the courts PDF version and email it to utdecf_clerk@utd.uscourts.gov for issuance. (eat) (Entered: 11/23/2015)
11/23/2015	2	COMPLAINT <i>for Permanent Injunction & Other Equitable Relief</i> against All Defendants No Filing Fee, filed by USA. (Attachments: # 1 Civil Cover Sheet) Assigned to Judge David Nuffer (Mangum, John) Modified to correct docket text on 11/23/2015 (eat). (Entered: 11/23/2015)
11/23/2015	3	MOTION for Admission Pro Hac Vice of Erin Healy Gallagher (no registration fee required) filed by Plaintiff USA. (Attachments: # 1 Exhibit A & B - PHV Applic & ECF Registration, # 2 Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	4	MOTION for Admission Pro Hac Vice of Erin R. Hines (no registration fee required) filed by Plaintiff USA. (Attachments: # 1 Exhibit A - PHV Application, # 2 Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	5	MOTION for Admission Pro Hac Vice of Christopher R. Moran (no registration fee required) filed by Plaintiff USA. (Attachments: # 1 Exhibit A & B - PHV Application & ECF Registration, # 2 Text of Proposed Order na)(Mangum, John) (Entered: 11/23/2015)
11/23/2015	6	**RESTRICTED DOCUMENT** Summons Issued Electronically as to International Automated Systems. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	7	**RESTRICTED DOCUMENT** Summons Issued Electronically as to RaPower-3. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	8	**RESTRICTED DOCUMENT** Summons Issued Electronically as to Roger Freeborn. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)

11/23/2015	2	**RESTRICTED DOCUMENT** Summons Issued Electronically as to Neldon Johnson. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	10	**RESTRICTED DOCUMENT** Summons Issued Electronically as to R. Gregory Shepard. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (mms) (Entered: 11/23/2015)
11/23/2015	11	DOCKET TEXT ORDER granting 3 Motion for Admission Pro Hac Vice of Erin Healy Gallagher ; granting 4 Motion for Admission Pro Hac Vice of Erin R. Hines ; granting 5 Motion for Admission Pro Hac Vice of Christopher R. Moran ; all for USA. <i>Attorneys admitted Pro Hac Vice may download a copy of the District of Utahs local rules from the courts web site at http://www.utd.uscourts.gov</i> So ordered by Judge David Nuffer on 11/23/15 (docket text only - no attached document) (alt) (Entered: 11/23/2015)
11/23/2015	12	**RESTRICTED DOCUMENT** Summons Issued Electronically as to LTB1. Instructions to Counsel: 1. Click on the document number. 2. If you are prompted for an ECF login, enter your 'Attorney' login to CM/ECF. 3. Print the issued summons for service. (eat) (Entered: 11/23/2015)
11/24/2015	13	DOCKET TEXT ORDER REFERRING CASE to Magistrate Judge Brooke C. Wells under 28:636 (b)(1)(A), Magistrate to hear and determine all nondispositive pretrial matters. So ordered by Judge David Nuffer on 11/24/15 (docket text only - no attached document) (alt) (Entered: 11/24/2015)
12/31/2015	14	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to R. Gregory Shepard served on 12/3/2015, answer due 12/24/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	15	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to Roger Freeborn served on 12/4/2015, answer due 12/28/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	16	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to Neldon Johnson served on 12/9/2015, answer due 12/30/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	17	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to RaPower-3 served on 12/9/2015, answer due 12/30/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	18	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to International Automated Systems served on 12/4/2015, answer due 12/28/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
12/31/2015	19	**RESTRICTED DOCUMENT** SUMMONS Returned Executed by USA as to LTB1 served on 12/5/2015, answer due 12/28/2015. (Attachments: # 1 Summons)(Hines, Erin) (Entered: 12/31/2015)
01/18/2016	20	NOTICE of Appearance by Donald S. Reay on behalf of Roger Freeborn (Reay, Donald)

		(Entered: 01/18/2016)
01/18/2016	21	NOTICE of Appearance by Donald S. Reay on behalf of R. Gregory Shepard (Reay, Donald) (Entered: 01/18/2016)
01/21/2016	22	ANSWER to Complaint filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Attorney Samuel Alba added to party International Automated Systems(pty:dft), Attorney Samuel Alba added to party Neldon Johnson(pty:dft), Attorney Samuel Alba added to party LTB1(pty:dft), Attorney Samuel Alba added to party RaPower-3(pty:dft)(Alba, Samuel) (Entered: 01/21/2016)
01/25/2016	23	RE-FILED AS 26 ANSWER - ANSWER to Complaint filed by Roger Freeborn.(Reay, Donald) Modified on 1/29/2016: added re-filing info (alt) (Entered: 01/25/2016)
01/25/2016	24	DEMAND for Trial by Jury by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Alba, Samuel) (Entered: 01/25/2016)
01/26/2016	25	NOTICE FROM THE COURT re: Initial Scheduling The court's IPT Clerk will now set the case for the Initial Pretrial Scheduling Conference (asb) (Entered: 01/26/2016)
01/26/2016	26	ANSWER to Complaint filed by Roger Freeborn, R. Gregory Shepard.(Reay, Donald) (Entered: 01/26/2016)
02/04/2016	27	<u>NOTICE OF INITIAL PRETRIAL CONFERENCE:</u> (Notice generated by IPT Clerk) The Attorneys Planning Meeting Report and Proposed Scheduling Order forms, available on the court web site at http://www.utd.uscourts.gov/documents/formpage.html , should be prepared 21 days before the Initial Pretrial Conference hearing date. <u>NOTICE TO COUNSEL,</u> The Court <i>may</i> enter a scheduling order and vacate the hearing <i>if</i> counsel (a) file a stipulated Attorneys Planning Meeting Report ; and (b) e-mail a Proposed Scheduling Order to ipt@utd.uscourts.gov 21 days before the scheduled hearing. See instructions at http://www.utd.uscourts.gov/documents/ipt.html If counsel or the parties would like to participate by phone they must contact the IPT Clerk at least two days in advance at ipt@utd.uscourts.gov to make arrangements. Initial Pretrial Conference set for 3/9/2016 at 10:00 AM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. (jds) (Entered: 02/04/2016)
02/09/2016	28	MOTION to Continue the March 9, 2016 Hearing and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # 1 Text of Proposed Order Order Granting Motion to Continue the March 9, 2016 Hearing) Motions referred to Brooke C. Wells.(Alba, Samuel) (Entered: 02/09/2016)
02/09/2016	29	NOTICE of Appearance by James S. Judd on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Judd, James) (Entered: 02/09/2016)
02/11/2016	30	ORDER granting 28 Motion to Continue the March 9, 2016. Hearing is reset to April 13, 2016 at 10:00 am. Signed by Magistrate Judge Evelyn J. Furse on 2/10/2016. (jds) Modified time on 2/11/2016 (jds). (Entered: 02/11/2016)
02/11/2016		<u>Reset Hearings:</u> Initial Pretrial Conference reset for 4/13/2016 at 10:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (jds) (Entered: 02/11/2016)
02/22/2016	31	MOTION to Strike and Memorandum in Support <i>re Jury Demand</i> filed by Plaintiff USA.

		Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 5/27/2016: removed unnecessary text (alt) (Entered: 02/22/2016)
03/04/2016	32	MEMORANDUM in Opposition re 31 MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Alba, Samuel) (Entered: 03/04/2016)
03/14/2016		Reset Hearings: Initial Pretrial Conference reset for 4/20/2016 at 10:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (jds) (Entered: 03/14/2016)
03/18/2016	33	REPLY to Response to Motion re 31 MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by Plaintiff USA. (Attachments: # 1 Supplement Unpublished Opinion, USA v. Hansen, 05cv0921-L (SD Cal.))(Moran, Christopher) (Entered: 03/18/2016)
03/21/2016	34	NOTICE OF HEARING ON MOTION re: 31 MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> : (Notice generated by chambers) Motion Hearing set for 4/27/2016 at 10:00 AM in Rm 7.400 before Magistrate Judge Brooke C. Wells. (mjw) (Entered: 03/21/2016)
03/25/2016	35	REPORT OF ATTORNEY PLANNING MEETING. (Hines, Erin) (Entered: 03/25/2016)
04/05/2016	36	NOTICE of Appearance by Rodney R. Parker on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Parker, Rodney) (Entered: 04/05/2016)
04/06/2016	37	SCHEDULING ORDER: Initial Pretrial Conference vacated. Amended Pleadings due by 11/4/2016. Joinder of Parties due by 11/4/2016. Expert Discovery due by 10/6/2017. Motions due by 11/10/2017. Final Pretrial Conference set for 4/2/2018 at 02:30 PM in Rm 3.100 before Judge David Nuffer. 10 Day Jury Trial set for 4/16/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 4/5/16 (alt) (Entered: 04/06/2016)
04/06/2016	38	NOTICE of Appearance by Richard A. Van Wagoner on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Van Wagoner, Richard) (Entered: 04/06/2016)
04/11/2016	39	MOTION for Protective Order and Memorandum in Support <i>Relief re DUCivR26-2</i> filed by Plaintiff USA. Motions referred to Brooke C. Wells.(Hines, Erin) Modified on 9/20/2016: corrected text (alt) (Entered: 04/11/2016)
04/22/2016	40	DOCKET TEXT ORDER - The court orders the parties to follow the Short Form Discovery Motion procedure as outlined in the attached document in this case for all discovery disputes arising after this date. Signed by Judge David Nuffer on 4/22/2016. (jds) (Entered: 04/22/2016)
04/25/2016	41	MEMORANDUM in Opposition re 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Parker, Rodney) (Entered: 04/25/2016)
04/27/2016	42	Minute Order. Proceedings held before Magistrate Judge Brooke C. Wells. Motion Hearing held on 4/27/2016 re 31 MOTION to Strike and Memorandum in Support of <i>Motion to Strike Jury Demand</i> filed by USA. Court heard from cnsl. Court took under advisement 31 Motion to Strike. Order to issue. Attorney for Plaintiff: Christopher R. Moran, Erin R. Hines, Attorney for Defendant James S. Judd, Rodney R. Parker, Donald S. Reay. Court Reporter: electronic.(Time Start: 10:00, Time End: 11:00, Room 7.4.) (mlp) (Entered: 04/29/2016)

05/02/2016	43	MEMORANDUM DECISION AND ORDER granting 31 Motion to Strike Jury Demand. Signed by Magistrate Judge Brooke C. Wells on 5/2/16 (alt) (Entered: 05/02/2016)
05/09/2016	44	REPLY to Response to Motion re 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 05/09/2016)
05/13/2016	45	REQUEST for Oral Argument re 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Judd, James) (Entered: 05/13/2016)
05/18/2016	46	SUBSTITUTION OF COUNSEL Justin D. Heideman replacing Rodney R. Parker; Richard A. Van Wagoner; Samuel Alba and James S. Judd as counsel on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 05/18/2016)
05/27/2016	47	CERTIFICATE OF SERVICE by Roger Freeborn, R. Gregory Shepard <i>Responses to Plaintiff's First Interrogatories to Defendants</i> (Reay, Donald) (Entered: 05/27/2016)
05/27/2016	48	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 <i>Responses to Plaintiff's First Interrogatories to Defendant LTB1</i> (Heideman, Justin) (Entered: 05/27/2016)
05/27/2016	49	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 <i>Responses to Plaintiff's First Interrogatories to Defendant International Automated Systems, Inc.</i> (Heideman, Justin) (Entered: 05/27/2016)
06/13/2016	50	NOTICE OF HEARING ON MOTION re: 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> : (Notice generated by chambers) Motion Hearing set for 7/27/2016 at 02:00 PM in Rm 7.400 before Magistrate Judge Brooke C. Wells. (mjw) (Entered: 06/13/2016)
06/17/2016	51	CERTIFICATE OF SERVICE by Roger Freeborn, R. Gregory Shepard <i>Responses to Plaintiff's First RPD and Supplemental Responses to Plaintiff's First Interrogatories to Defendants</i> (Reay, Donald) (Entered: 06/17/2016)
06/20/2016	52	NOTICE OF FILING of Certificate of Service <i>Defendant's Production of Documents</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 06/20/2016)
06/21/2016	53	MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit A, # 2 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/21/2016)
06/21/2016	54	NOTICE OF FILING of Certificate of Service of <i>Defendant RaPower-3 Responses to First Set of Interrogatories</i> filed by Defendant RaPower-3. (Heideman, Justin) (Entered: 06/21/2016)
06/22/2016	55	MOTION to Compel LTB1 to Sign and Supplement its Responses to Plaintiff's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit USA's First Interrogatories to LTB1, LLC, # 2 Exhibit LTB1's response to USA's First Interrogatories, # 3 Exhibit 2016

		0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/22/2016	56	MOTION to Compel IAS to sign and supplement its responses to USA's first interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit USA's First Interrogatories to IAS, # 2 Exhibit IAS' Responses to USA's First Interrogatories, # 3 Exhibit 2016 0602 USA Letter to Justin Heideman, # 4 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/22/2016	57	MOTION to Compel Neldon Johnson to Sign and Supplement response to USA's First Interrogatories and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit USA's First Interrogatories to Neldon Johnson, # 2 Exhibit Neldon Johnson's responses to USA's First Interrogatories, # 3 Exhibit 2016 0602 USA Letter to Justin Heideman, # 4 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/22/2016)
06/23/2016	58	RE-FILED AS 59 AMENDED MOTION - Supplemental MOTION to Amend/Correct 53 MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit RaPower-3's responses to USA's first interrogatories, # 2 Exhibit 2016 0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 6/27/2016: added re-filing info (alt) (Entered: 06/23/2016)
06/27/2016	59	Amended MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit RaPower-3's responses to USA's first interrogatories, # 2 Exhibit 2016 0602 USA Letter to Justin Heideman) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 06/27/2016)
06/27/2016		Modification of Docket re 58 Supplemental MOTION to Amend/Correct 53 MOTION to Compel RaPower-3, LLC to respond to Plaintiff's First Interrogatories. Error: Document was filed incorrectly as a Motion to Amend. Correction: Motion has been correctly re-filed as 59 Amended Motion to Compel. (alt) (Entered: 06/27/2016)
06/27/2016	60	ORDER setting briefing on 55 Motion to Compel, 56 Motion to Compel, 57 Motion to Compel, 59 Amended Motion to Compel: Oppositions due 7/7/16; Replies due 7/12/16. Parties are to notify court of the resolution of any issues on or before 7/15/16. Signed by Magistrate Judge Brooke C. Wells on 6/27/16 (alt) (Entered: 06/27/2016)
07/05/2016	61	STIPULATION to Extend Time to Answer Requests for Discovery by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/05/2016)
07/11/2016	62	MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/11/2016)
07/14/2016	63	NOTICE OF FILING filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/14/2016)
07/14/2016	64	MEMORANDUM in Opposition re 59 Amended MOTION to Compel RaPower-3 to Respond to First Interrogatories filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 07/14/2016)

07/15/2016	65	MOTION to Quash <i>Subpoenas</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/15/2016)
07/19/2016	66	REPLY to Response to Motion re 57 MOTION to Compel Neldon Johnson to Sign and Supplement Response to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # 1 Exhibit Neldon Johnson's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	67	REPLY to Response to Motion re 55 MOTION to Compel LTB1 to Sign and Supplement Responses to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # 1 Exhibit LTB's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	68	REPLY to Response to Motion re 56 MOTION to Compel IAS to Sign and Supplement Responses to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # 1 Exhibit IAS's Signed, Supplemental Responses to the United States' First Interrogatories)(Moran, Christopher) (Entered: 07/19/2016)
07/19/2016	69	REPLY to Response to Motion re 59 Amended MOTION to Compel RaPower-3 to Respond to First Interrogatories, 53 MOTION to Compel RaPower-3 to Respond to First Interrogatories MOTION to Expedite filed by Plaintiff USA. (Attachments: # 1 Exhibit RaPower-3's Signed, Supplemental Responses to the United States' First Interrogatories) (Moran, Christopher) (Entered: 07/19/2016)
07/21/2016	70	MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 07/21/2016)
07/25/2016	71	MEMORANDUM in Opposition re 62 MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # 1 Exhibit Emails re: Notice of Intent to Subpoena, # 2 Exhibit Subpoena)(Hines, Erin) (Entered: 07/25/2016)
07/27/2016	72	Minute Order. Proceedings held before Magistrate Judge Brooke C. Wells. Motion Hearing held on 7/27/2016 re 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order and DUCivR26-2</i> filed by USA. Court heard from parties and took under advisement 39 Motion for Protective Order. Both parties have until Wednesday, August 3, 2016 to submit cases found that support their position. Attorney for Plaintiff: Erin Healy Gallagher, Christopher R. Moran, Attorney for Defendant Justin D. Heideman, Donald S. Reay. Court Reporter: electronic.(Time Start: 2:00, Time End: 2:45, Room 7.4.) (mlp) (Entered: 07/28/2016)
08/01/2016	73	MEMORANDUM in Opposition re 65 MOTION to Quash <i>Subpoenas</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit A, emails regarding notice of subpoenas, # 2 Exhibit B, subpoena to Bank of American Fork)(Gallagher, Erin) (Entered: 08/01/2016)
08/02/2016	74	NOTICE of filing a corrected exhibit by USA re 71 Memorandum in Opposition to Motion (Attachments: # 1 Exhibit A, emails regarding notice of subpoenas) (Gallagher, Erin) (Entered: 08/02/2016)
08/03/2016	75	NOTICE OF FILING filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/03/2016)
08/03/2016	76	NOTICE of SUPPLEMENTAL AUTHORITY by USA re 39 MOTION for Protective Order and Memorandum in Support <i>Motion for Relief from Standard Protective Order</i>

		<i>and DE CivR20-2, 72</i> Order on Motion for Protective Order, Motion Hearings,,, (Hines, Erin) (Entered: 08/03/2016)
08/05/2016	77	MEMORANDUM in Opposition re 70 MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # 1 Exhibit A, emails regarding notice of subpoenas, # 2 Exhibit B, subpoena to Wells Fargo Bank, N.A.)(Gallagher, Erin) (Entered: 08/05/2016)
08/08/2016	78	REPLY to Response to Motion re 62 MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/08/2016)
08/08/2016	79	NOTICE of Appearance by Justin D. Heideman on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Heideman, Justin) (Entered: 08/08/2016)
08/08/2016	80	NOTICE of Appearance by Justin D. Heideman on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Heideman, Justin) (Entered: 08/08/2016)
08/15/2016	81	MEMORANDUM in Support re 65 MOTION to Quash <i>Subpoenas</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/15/2016)
08/19/2016	82	RESPONSE to Motion re 70 MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 08/19/2016)
08/19/2016	83	MOTION to Quash Production of Information and Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 08/19/2016)
08/19/2016	84	MOTION to Quash Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 08/19/2016)
09/02/2016	85	MEMORANDUM in Opposition re 83 MOTION to Quash Production of Information and Subpoenas filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit A Excerpts from the Deposition of Frank F. Lunn, # 3 Exhibit B Excerpts from the Deposition of Brian Zeleznik, # 4 Exhibit C Excerpts from the Deposition of Lynette L. Williams, # 5 Exhibit D Excerpts from the Deposition of Preston F. Olsen, # 6 Exhibit E Pl. U.S.s Notice of Intent to Subpoena Docs. dated March 14, 2016, # 7 Exhibit F Pl. U.S.s Notice of Intent to Subpoena Docs dated April 29, 2016, # 8 Exhibit G Letter from Erin Healy Gallagher to Paul Jones dated August 16, 2016, # 9 Exhibit H Email correspondence from Gregory Shepard produced by a third-party, # 10 Exhibit I Excerpts from Gregory Shepards Response to United States First, # 11 Exhibit J Email correspondence from Gregory Shepard produced by a third-party, # 12 Exhibit K Excerpts from the Deposition of Robert Rowbotham, # 13 Exhibit L Flyer for Solar Energy Celebration, # 14 Exhibit M Email correspondence from Gregory Shepard produced by a third-party, # 15 Exhibit N Excerpt from email correspondence from Gregory Shepard produced by, # 16 Exhibit O Email correspondence from Gregory Shepard produced by a third-party, # 17 Exhibit 4 Printout of www.rapower3.com: RaPower3 Technology dated March, # 18 Exhibit 16 New Solar Breakthrough May Compete with Gas downloaded from, # 19 Exhibit 17 IAUS Technical Overview downloaded from prior version of, # 20 Exhibit 21 Printout of www.rapower3.com: Site Tours dated March 2, 2015, # 21 Exhibit 35 Subpoena to Frank Lunn dated March 21, 2016, # 22 Exhibit 42 RaPower3 Member Office printout from Frank F. Lunn dated, # 23 Exhibit 114 Email correspondence from Gregory Shepard produced by a third-party, # 24 Exhibit 118 Subpoena to Lynette L. Williams dated May 6, 2016, # 25 Exhibit 154 Email correspondence produced by Preston F. Olsen)(Gallagher, Erin) (Entered: 09/02/2016)

09/02/2016	86	MEMORANDUM in Opposition re 84 MOTION to Quash Subpoenas filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit A Email correspondence from Gregory Shepard produced by a third-party, # 3 Exhibit B Email correspondence from Gregory Shepard produced by a third-party, # 4 Exhibit C Excerpts from the Deposition of Frank F. Lunn, # 5 Exhibit D Excerpts from the Deposition of Brian Zeleznik, # 6 Exhibit E Excerpts from the Deposition of Lynette L. Williams, # 7 Exhibit F Excerpts from the Deposition of Preston F. Olsen, # 8 Exhibit G Email correspondence from Gregory Shepard produced by a third-party, # 9 Exhibit H Pl. U.S.s Notice of Intent to Subpoena Docs. dated July 21, 2016, # 10 Exhibit I Email correspondence from Gregory Shepard produced by a third-party, # 11 Exhibit J Excerpts from Gregory Shepards Response to United States First, # 12 Exhibit K Email correspondence from Gregory Shepard produced by a third-party, # 13 Exhibit L Excerpts from the Deposition of Robert Rowbotham, # 14 Exhibit M Flyer for Solar Energy Celebration, # 15 Exhibit N Email correspondence from Gregory Shepard produced by a third-party, # 16 Exhibit O Excerpt from email correspondence from Gregory Shepard produced by, # 17 Exhibit P Email correspondence from Gregory Shepard produced by a third-party, # 18 Exhibit 4 Printout of www.rapower3.com: RaPower3 Technology dated March, # 19 Exhibit 16 New Solar Breakthrough May Compete with Gas downloaded from, # 20 Exhibit 17 IAUS Technical Overview downloaded from prior version of, # 21 Exhibit 21 Printout of www.rapower3.com: Site Tours dated March 2, 2015, # 22 Exhibit 42 RaPower3 Member Office printout from Frank F. Lunn dated, # 23 Exhibit 114 Email correspondence from Gregory Shepard produced by a third-party, # 24 Exhibit 154 Email correspondence produced by Preston F. Olsen)(Gallagher, Erin) (Entered: 09/02/2016)
09/16/2016	87	MOTION to Quash Subpoena filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # 1 Exhibit Subpoena to Kenneth Birrell) Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	88	REPLY to Response to Motion re 83 MOTION to Quash Production of Information and Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	89	REPLY to Response to Motion re 84 MOTION to Quash Subpoenas filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 09/16/2016)
09/16/2016	90	MOTION to Bifurcate and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 09/16/2016)
09/19/2016	91	Motions No Longer Referred: 90 MOTION to Bifurcate and Memorandum in Support (jcw) (Entered: 09/19/2016)
09/20/2016	92	MEMORANDUM DECISION AND ORDER granting 39 Motion for Relief from Standard Protective Order. Case is stayed for 45 days to allow the parties to negotiate a new protective order. Signed by Magistrate Judge Brooke C. Wells on 9/20/16 (alt) (Entered: 09/20/2016)
10/03/2016	93	MOTION for Leave to File Excess Pages and Memorandum in Support re <i>Motion to Bifurcate</i> filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 10/03/2016)
10/03/2016	94	MOTION to Bifurcate and Memorandum in Support filed by Defendants Roger Freeborn, R. Gregory Shepard. Motions referred to Brooke C. Wells.(Reay, Donald) (Entered: 10/03/2016)
10/03/2016	95	MEMORANDUM in Opposition re 94 MOTION to Bifurcate, 90 MOTION to Bifurcate

		filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit A - Email correspondence from Gregory Shepard produced by a third-party customer dated July 19, 2012, # 3 Exhibit B - Printout of www.rapower3.com: Start Your Own RaPower3 [sic] Business dated March 2, 2015, # 4 Exhibit C - Printout of www.rapower3.com: Start Your Own RaPower3 [sic] Business dated May 1, 2014, # 5 Exhibit Email correspondence from Gregory Shepard produced by a third-party customer dated February 19, 2016, # 6 Exhibit E - United States First Requests for the Production of Documents to Defendant Neldon Johnson, # 7 Exhibit F - Excerpts from the Deposition of Frank F. Lunn, # 8 Exhibit 10 - Letter from Gregory Shepard dated March 20, 2015, from IRS files, # 9 Exhibit 19 - Printout of www.rapower3.com: Your BIG and Quick Payout dated March 2, 2015, # 10 Exhibit 25 - Printout of www.rapower3.com: Satisfying the IRS Depreciation Conditions dated March 2, 2015, # 11 Exhibit 26 - Printout of www.rapower3.com: RaPower3 [sic] Basics dated March 2, 2015, # 12 Exhibit 32 - Email correspondence from Gregory Shepard produced by a third-party customer dated November 11, 2013, # 13 Exhibit 34 - Printout of www.rapower3.com: Your BIG and Quick Payout dated May 1, 2014, # 14 Exhibit 35 - Subpoena for the production of documents to Frank F. Lunn, # 15 Exhibit 89 - Email correspondence from Gregory Shepard produced by a third-party customer dated January 17, 2014)(Gallagher, Erin) (Entered: 10/03/2016)
10/04/2016	96	Motions No Longer Referred: 90 MOTION to Bifurcate, 94 MOTION to Bifurcate and Memorandum in Support , 93 MOTION for Leave to File Excess Pages <i>re Motion to Bifurcate</i> (jcw) (Entered: 10/04/2016)
10/04/2016	97	DOCKET TEXT ORDER granting 93 Motion for Leave to File Excess Pages. The United States may file a brief in opposition to the motion for bifurcation of 24 total pages. Signed by Judge David Nuffer on 10/4/2016. (jcw) (Entered: 10/04/2016)
10/07/2016	98	Joint MOTION for Continued Discovery During Stay filed by Plaintiff USA. (Attachments: # 1 Joint Stipulation Regarding Continued Discovery During 45 Day Stay, # 2 Text of Proposed Order Approving Joint Stipulation) Motions referred to Brooke C. Wells.(Gallagher, Erin) Modified on 10/7/2016: corrected text (alt) (Entered: 10/07/2016)
10/07/2016	99	ORDER granting 98 Stipulated Motion for Continued Discovery During Stay. Signed by Magistrate Judge Brooke C. Wells on 10/7/16 (alt) (Entered: 10/07/2016)
10/17/2016	100	REPLY to Response to Motion re 90 MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 10/17/2016)
10/18/2016	101	REPLY to Response to Motion re 94 MOTION to Bifurcate <i>and Joinder</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 10/18/2016)
10/20/2016	102	STATUS REPORT <i>Regarding Protective Order</i> by USA. (Moran, Christopher) (Entered: 10/20/2016)
10/21/2016	103	ERRATA to 100 Reply Memorandum/Reply to Response to Motion filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3 . (Heideman, Justin) (Entered: 10/21/2016)
10/24/2016	104	ORDER: on or by 11/3/16, the parties are to file a new stipulated protective order and a status report regarding the pending motions. Signed by Magistrate Judge Brooke C. Wells on 10/24/16 (alt) (Entered: 10/24/2016)
11/03/2016	105	STATUS REPORT by USA. (Gallagher, Erin) (Entered: 11/03/2016)
11/03/2016	106	NOTICE OF FILING of United States' Proposed Protective Order filed by Plaintiff USA. (Gallagher, Erin) (Entered: 11/03/2016)

11/03/2016	107	ENTRY ERROR - Disregard, Incorrect Document Attached. NOTICE OF FILING of Proposed Stipulated Protective Order filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin) Modified by striking entry and adding error text on 11/3/2016 (eat). (Entered: 11/03/2016)
11/03/2016	108	STATUS REPORT by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin) (Entered: 11/03/2016)
11/03/2016	109	Modification of Docket: Error: counsel uploaded the wrong document. Correction: docket entry stricken and error message added re 107 Notice of Filing. (eat) (Entered: 11/03/2016)
11/03/2016	110	NOTICE OF FILING of Proposed Joint Stipulated Protective Order filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Heideman, Justin) (Entered: 11/03/2016)
11/04/2016	111	MOTION for Extension of Time to file a motion to amend complaint and join parties and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit A, "Defendant Neldon Johnson's Production of Documents") Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 11/04/2016)
11/04/2016	112	Joint MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Text of Proposed Order) Motions referred to Brooke C. Wells.(Reay, Donald) (Entered: 11/04/2016)
11/18/2016	113	MEMORANDUM in Opposition re 112 Joint MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Plaintiff USA. (Gallagher, Erin) (Entered: 11/18/2016)
11/22/2016	114	REQUEST to Submit for Decision re 111 MOTION for Extension of Time to file a motion to amend complaint and join parties and Memorandum in Support filed by Plaintiff USA. (Moran, Christopher) (Entered: 11/22/2016)
11/29/2016	115	DOCKET TEXT ORDER - The court orders the parties to follow the Short Form Discovery Motion procedure as outlined in the attached document in this case for all discovery disputes arising after this date. So ordered by Magistrate Judge Brooke C. Wells on 11/29/16 (docket text order only - no order attached) (alt) (Entered: 11/29/2016)
11/29/2016	116	PROTECTIVE ORDER. Signed by Magistrate Judge Brooke C. Wells on 11/29/16 (alt) (Entered: 11/29/2016)
11/29/2016	117	ORDER denying without prejudice 55 Motion to Compel; denying without prejudice 56 Motion to Compel; denying without prejudice 57 Motion to Compel; denying without prejudice 59 Motion to Compel; denying without prejudice 62 Motion to Quash; denying without prejudice 65 Motion to Quash; denying without prejudice 70 Motion to Quash; denying without prejudice 83 Motion to Quash; denying without prejudice 84 Motion to Quash; denying without prejudice 87 Motion to Quash; denying without prejudice 111 Motion for Extension of Time; granting in part and deeming moot in part 112 Motion for Extension of Time to Complete Discovery. Signed by Magistrate Judge Brooke C. Wells on 11/29/16 (alt) (Entered: 11/29/2016)
01/04/2017	118	REQUEST to Submit for Decision re 90 MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 01/04/2017)
01/12/2017	119	CERTIFICATE OF SERVICE by R. Gregory Shepard <i>Supplemental Responses to US</i>

		<i>First Request for Production</i> (Reay, Donald) (Entered: 01/12/2017)
01/12/2017	120	CERTIFICATE OF SERVICE by R. Gregory Shepard <i>Response to the USA's Second Request for Production of Documents</i> (Reay, Donald) (Entered: 01/12/2017)
01/13/2017	121	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTBI, RaPower-3 <i>Supplemental Responses to USA's Request for Production of Documents</i> (Heideman, Justin) (Entered: 01/13/2017)
01/31/2017	122	REQUEST to Submit for Decision re 90 MOTION to Bifurcate filed by Defendants International Automated Systems, Neldon Johnson, LTBI, RaPower-3. (Heideman, Justin) (Entered: 01/31/2017)
02/02/2017	123	NOTICE of Appearance by Byron G. Martin on behalf of Todd Anderson (Martin, Byron) (Entered: 02/02/2017)
02/02/2017	124	MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena , MOTION to Quash Subpoena filed by Movant Todd Anderson. (Attachments: # 1 Exhibit 1 - Subpoena to Todd Anderson, # 2 Exhibit 2 - Heideman E-mail, # 3 Text of Proposed Order) Motions referred to Brooke C. Wells.(Martin, Byron) (Entered: 02/02/2017)
02/02/2017	125	NOTICE of Appearance by Stuart H. Schultz on behalf of Todd Anderson (Schultz, Stuart) (Entered: 02/02/2017)
02/07/2017	126	MEMORANDUM in Opposition re 124 MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena MOTION to Quash Subpoena filed by Plaintiff USA. (Attachments: # 1 Exhibit 353, United States' correspondence of 12/1/2016, # 2 Exhibit 1, RaPower-3 website)(Moran, Christopher) (Entered: 02/07/2017)
02/14/2017	127	MOTION to Quash Subpoena to Todd Anderson and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTBI, RaPower-3. Motions referred to Brooke C. Wells.(Heideman, Justin) (Entered: 02/14/2017)
02/15/2017	128	REQUEST to Submit for Decision re 124 MOTION to Expedite Handling of Short Form Discovery Motion to Quash Subpoena MOTION to Quash Subpoena filed by Movant Todd Anderson. (Martin, Byron) (Entered: 02/15/2017)
02/16/2017	129	MEMORANDUM in Opposition re 127 MOTION to Quash Subpoena to Todd Anderson and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit No. 378, Notice of Todd Anderson's Deposition)(Moran, Christopher) (Entered: 02/16/2017)
02/21/2017	130	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTBI, RaPower-3 <i>Responses to the US's Second Request for Production of Documents</i> (Heideman, Justin) (Entered: 02/21/2017)
02/21/2017	131	CERTIFICATE OF SERVICE by International Automated Systems, Neldon Johnson, LTBI, RaPower-3 <i>Responses to the US's Second Interrogatories to International Automated Systems, Neldon Johnson, LTBI, and RaPower-3</i> (Heideman, Justin) (Entered: 02/21/2017)
02/28/2017	132	ORDER denying 124 Motion to Quash Subpoena; denying 127 Motion to Quash Subpoena. Signed by Magistrate Judge Brooke C. Wells on 2/28/17 (alt) (Entered: 02/28/2017)
03/09/2017	133	Expedited MOTION for Leave to File Motions to Compel Deposition Testimony Under Seal and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 3/10/2017 added Expedited text (las). (Entered: 03/09/2017)

03/10/2017	134	Amended MOTION for Leave to File Motions to Compel Deposition Testimony Under Seal and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) (Entered: 03/10/2017)
03/15/2017	135	ORDER granting 134 Motion for Leave to File Motions to Compel Deposition Testimony Under Seal. Signed by Magistrate Judge Brooke C. Wells on 3/15/17 (alt) (Entered: 03/15/2017)
03/22/2017	136	NOTICE OF CONVENTIONAL FILING of Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Plaintiff USA (Moran, Christopher) (Entered: 03/22/2017)
03/23/2017	137	*SEALED DOCUMENT* SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla and Memorandum in Support filed by Plaintiff USA (Attachments: # 1 Exhibit Index, # 2 Exhibit 87, # 3 Exhibit 136, # 4 Exhibit 214, # 5 Exhibit 221, # 6 Exhibit 244, # 7 Exhibit 372, # 8 Exhibit 373, # 9 Exhibit 374, # 10 Exhibit 376, # 11 Exhibit 377, # 12 Exhibit 381, # 13 Exhibit 383, # 14 Exhibit 384, # 15 Exhibit 385, # 16 Exhibit 386) Motion referred to Brooke C. Wells (alt) Modified on 7/19/2017 by unterming the motion. (lnp). Modified on 10/20/2017; Changed event type and Unsealed per 233 Order (jds). (Entered: 03/23/2017)
03/24/2017	138	MOTION to Compel Todd Anderson to Produce Documents and Memorandum in Support , MOTION to Expedite resolution of motion (in accordance with Short Form Discovery Motion Procedure) and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Brooke C. Wells.(Moran, Christopher) Modified on 3/24/2017: corrected text (alt) (Entered: 03/24/2017)
03/24/2017	139	MOTION for Leave to File Movants' Response to United States' Motion to Compel , MOTION to Seal re 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Movants Cody Buck, David Mantyla, Ken Oveson. Motions referred to Brooke C. Wells.(Benson, Eric) (Entered: 03/24/2017)
03/28/2017	140	MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 231, # 2 Exhibit 370, # 3 Exhibit 409, # 4 Exhibit 410, # 5 Exhibit 411 excerpt, # 6 Exhibit 412 excerpt) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 03/28/2017)
03/28/2017	141	ORDER granting 139 Motion to File Response to Motion to Compel Under Seal. Signed by Magistrate Judge Brooke C. Wells on 3/28/17 (alt) (Entered: 03/28/2017)
03/28/2017	142	Defendant's RESPONSE To United States' Request to Enter Onto Land For Inspection filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 03/28/2017)
03/29/2017	143	MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit excerpts from Pl. Ex. 413 Neldon Johnson's Resp. to US 1st Interrogs., # 2 Exhibit excerpts from Pl. Ex. 414, Def. RaPower-3's Resp. to US 1st Set of Interrogs., # 3 Exhibit excerpts from Pl. Ex. 415, IAS's Resp. to US 1st Interrogs., # 4 Exhibit excerpts from Pl. Ex. 416, LTB1's Resp. to US 1st Interrogs.) Motions referred to Brooke C. Wells.(Gallagher, Erin) (Entered: 03/29/2017)
03/29/2017	144	MEMORANDUM in Opposition re 138 MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion filed by Movant Todd Anderson.

		(Attachments: # 1 Text of Proposed Order Denying United States' Motion to Compel Todd Anderson to Produce Documents)(Martin, Byron) (Entered: 03/29/2017)
03/30/2017	145	ORDER OF RECUSAL. Magistrate Judge Brooke C. Wells recused. Magistrate Referral reassigned to Magistrate Judge Evelyn J. Furse under 28:636(b)(1)(A) to hear and determine all nondispositive pretrial matters. Motions referred to Evelyn J. Furse. Case number is now 2:15cv00828 DN-EJF. Signed by Magistrate Judge Brooke C. Wells on 3/30/17 (alt) (Entered: 03/30/2017)
03/31/2017	146	RESPONSE to Motion re 140 MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Movant Kenneth Birrell. (Attachments: # 1 Text of Proposed Order) Attorney Christopher S. Hill added to party Kenneth Birrell(pty:mov)(Hill, Christopher) (Entered: 03/31/2017)
04/03/2017	147	RESPONSE to Motion re 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/03/2017)
04/03/2017	148	RESPONSE to Motion re 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla <i>Short Form Response</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/03/2017)
04/04/2017	149	NOTICE OF HEARING ON MOTION re: 143 MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support , 138 MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion, 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, 140 MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 4/7/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 04/04/2017)
04/04/2017	150	RESPONSE to Motion re 138 MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/04/2017)
04/04/2017	151	RESPONSE to Motion re 140 MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Heideman, Justin) (Entered: 04/04/2017)
04/05/2017	152	AMENDED NOTICE OF HEARING ON MOTIONS re: 143 MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support , 138 MOTION to Compel Todd Anderson to Produce Documents MOTION to Expedite resolution of motion, 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, 140 MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing reset for 4/12/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. PLEASE NOTE THE DATE CHANGE. THIS HEARING WILL BE IN PERSON. (lnp) (Entered: 04/05/2017)
04/12/2017	153	RESPONSE to Motion re 143 MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC to answer certain interrogatories and Memorandum in Support filed by Defendants International

		Automated Systems, Neldon Johnson, LTBI, RaPower-3. (Heideman, Justin) (Entered: 04/12/2017)
04/12/2017	154	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 4/12/2017 re 140 MOTION to Compel deposition testimony of Kenneth Birrell and Memorandum in Support filed by USA, 143 MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTBI, LLC to answer certain interrogatories and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS IN PART 143 MOTION to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTBI, LLC. Court instructs Defendant to supplement responses within 21 days. Responses due by 5/3/2017. Court instructs Plaintiff's counsel to prepare and submit a proposed order. Court GRANTS IN PART 140 MOTION to Compel deposition testimony of Kenneth Birrell. Court orders depositions be taken on defendants on limited issue of assertion of right to counsel. The Court instructs the parties to meet and confer further. Court instructs Plaintiff's counsel to prepare and submit a proposed order. Court SEALS the remainder of the hearing from 6:48:09 PM - 8:12:16 PM. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant: Justin D. Heideman, Christopher Hill, Donald S. Reay. Court Reporter: Electronic.(Time Start: 2:06:22, Time End: 6:48:09, Room 7.400.)(lnp) (Entered: 04/13/2017)
04/21/2017	156	ORDER granting in part and denying in part 143 Motion to Compel Defendants Neldon Johnson, RaPower-3, LLC, International Automated Systems, Inc., and LTBI, LLC to answer certain interrogatories. Signed by Magistrate Judge Evelyn J. Furse on 4/21/2017. (jw) (Entered: 04/21/2017)
04/21/2017	157	RESPONSE OBJECTIONS re Proposed Order to 140 MOTION to Compel deposition testimony of Kenneth Birrell filed by International Automated Systems, Neldon Johnson, LTBI, RaPower-3. (Attachments: # 1 Text of Proposed Order)(Heideman, Justin) Modified on 4/25/2017: corrected entry text and linked to underlying motion to match actual filing (alt) (Entered: 04/21/2017)
04/21/2017	158	ORDER denying 90 Motion to Bifurcate; denying 94 Motion to Bifurcate. Signed by Judge David Nuffer on 4/21/2017. (jds) (Entered: 04/21/2017)
04/24/2017	159	Plaintiff's RESPONSE re 157 Objection re Proposed Order to 140 MOTION to Compel deposition testimony of Kenneth Birrell filed by USA. (Attachments: # 1 Text of Proposed Order re motion to compel deposition testimony of Kenneth Birrell)(Gallagher, Erin) Modified on 4/25/2017: corrected entry text to match actual filing and added link to underlying motion (alt) (Entered: 04/24/2017)
04/24/2017	160	ORDER granting in part 140 Motion to Compel Deposition Testimony of Kenneth Birrell. Signed by Magistrate Judge Evelyn J. Furse on 4/24/2017. (jds) (Entered: 04/24/2017)
04/24/2017	161	ORDER re 138 MOTION to Compel Todd Anderson to Produce Documents. The United States motion to compel Mr. Anderson to produce certain documents is DENIED WITHOUT PREJUDICE. Signed by Magistrate Judge Evelyn J. Furse on 4/24/2017. (jds) (Entered: 04/24/2017)
04/25/2017		Modification of Docket re 157 Response (NOT to motion), 159 Response (NOT to motion). Error: Document 157 is not a Response but an <u>Objection</u> to the proposed order related to 140 Motion.. Correction: Although the type of filing cannot be changed, the entry text will be corrected to show that it is an "Objection" and it will be linked to the underlying 140 Motion so that it shows on the docket report for that motion. Entry 159 , which is a Response to the Objection, will have its text corrected and a link created to

	140	Motion so that it also appears on the motion report for that motion. (alt) (Entered: 04/25/2017)
05/05/2017	162	RESPONSE re 160 Order on Motion to Compel, filed by USA. (Attachments: # 1 Exhibit 1, # 2 Exhibit 23, # 3 Exhibit 231, # 4 Exhibit 283, # 5 Exhibit 353, # 6 Exhibit 370, # 7 Exhibit 411, # 8 Exhibit 412, # 9 Exhibit 449, # 10 Exhibit 450, # 11 Exhibit 451, # 12 Exhibit 452)(Gallagher, Erin) (Entered: 05/05/2017)
05/18/2017	163	MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit 1, # 2 Exhibit 23, # 3 Exhibit 283, # 4 Exhibit 353, # 5 Exhibit 411, # 6 Exhibit 412, # 7 Exhibit 449, # 8 Exhibit 450, # 9 Exhibit 451, # 10 Exhibit 452, # 11 Exhibit 454) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 05/18/2017)
05/19/2017	164	MOTION to Withdraw as Attorney and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # 1 Exhibit Scheduling Order, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Heideman, Justin) (Entered: 05/19/2017)
05/22/2017	165	MOTION for Extension of Time Respond to United States' Renewed Motion to Compel Production of Documents and Memorandum in Support filed by Movant Todd Anderson. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 05/22/2017)
05/22/2017	166	NOTICE of Appearance by Denver C. Snuffer, Jr on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Snuffer, Denver) (Entered: 05/22/2017)
05/22/2017	167	NOTICE of Appearance by Daniel B. Garriott on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Garriott, Daniel) (Entered: 05/22/2017)
05/22/2017	168	ORDER granting 164 Motion to Withdraw as Attorney. Attorney Justin D. Heideman withdrawn from case for International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Signed by Magistrate Judge Evelyn J. Furse on 5/22/17 (alt) (Entered: 05/22/2017)
05/22/2017	169	NOTICE of Appearance by Steven R. Paul on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Paul, Steven) (Entered: 05/22/2017)
05/22/2017	170	MOTION for Protective Order and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 455, # 2 Exhibit 456, # 3 Exhibit 457) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 05/22/2017)
05/23/2017	171	NOTICE OF HEARING ON MOTION re: 170 MOTION for Protective Order and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. OPPOSITION DUE 6/13/2017. (lnp) (Entered: 05/23/2017)
05/23/2017	172	ORDER granting 165 Motion for Extension of Time. Signed by Magistrate Judge Evelyn J. Furse on 5/23/17 (alt) (Entered: 05/23/2017)
05/26/2017	173	Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 05/26/2017)
05/30/2017	174	Motions No Longer Referred: 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> (jcw) (Entered: 05/30/2017)
05/30/2017	175	MEMORANDUM in Opposition re 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Movant Todd Anderson.

		(Martin, Byron) (Entered: 05/30/2017)
05/31/2017	176	MEMORANDUM in Opposition re 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Garriott, Daniel) (Entered: 05/31/2017)
05/31/2017	177	MOTION to Quash Subpoena to IRS and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 488 - Notice of Intent to Subpoena and Subpoena Duces Tecum to IRS, # 2 Exhibit 453 - United States' Objections and Responses to Defendants' First Requests to Plaintiff United States, # 3 Exhibit 457 - United States' Supplemental Objections and Responses to Defendants' First Discovery Requests to Plaintiff United States, # 4 Exhibit 189 - Email correspondence produced by a third-party, # 5 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) (Entered: 05/31/2017)
06/01/2017	178	MOTION for Extension of Time to Complete Discovery and Memorandum in Support , MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 457, # 2 Exhibit 484, # 3 Exhibit 485, # 4 Exhibit 486, # 5 Exhibit 487) Motions referred to Evelyn J. Furse. (Gallagher, Erin) (Entered: 06/01/2017)
06/01/2017	179	NOTICE OF HEARING ON MOTION re: 177 MOTION to Quash Subpoena to IRS and Memorandum in Support : (Notice generated by EJP Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. OPPOSITION DUE 6/13/2017. (lnp) (Entered: 06/01/2017)
06/05/2017	180	MEMORANDUM in Opposition re 170 MOTION for Protective Order and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Paul, Steven) (Entered: 06/05/2017)
06/05/2017	181	NOTICE OF HEARING ON MOTIONS re: 178 MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support , 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> : (Notice generated by EJP Chambers) Motion Hearing set for 6/15/2017 at 09:00 AM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 06/05/2017)
06/07/2017	182	MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson. Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 06/07/2017)
06/07/2017	183	MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson. (Attachments: # 1 Text of Proposed Order Proposed Order) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 06/07/2017)
06/08/2017	184	MEMORANDUM in Opposition re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit 10, # 2 Exhibit 504, # 3 Exhibit 505)(Gallagher, Erin) (Entered: 06/08/2017)
06/08/2017	185	RESPONSE to Motion re 183 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Plaintiff USA. (Gallagher, Erin) (Entered: 06/08/2017)
06/08/2017	186	RESPONSE to Motion re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	187	RESPONSE to Motion re 173 Defendant's MOTION to Strike and Memorandum in

		Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	188	RESPONSE to Motion re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f) and Joinder to Motion</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/08/2017)
06/08/2017	189	DOCKET TEXT ORDER re 183 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Todd Anderson, 182 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Todd Anderson. Opposition Due 6/9/17. Signed by Magistrate Judge Evelyn J. Furse on 6/8/17. (brm) (Entered: 06/08/2017)
06/08/2017	190	RESPONSE to Motion re 183 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents , 182 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents <i>AND "NON-OPPOSITION" THERETO</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Paul, Steven) (Entered: 06/08/2017)
06/09/2017	191	REPLY to Response to Motion re 183 MOTION to Continue Hearing on United States' Renewed Motion to Compel Todd Anderson to Produce Documents filed by Movant Todd Anderson. (Martin, Byron) (Entered: 06/09/2017)
06/09/2017	192	DOCKET TEXT ORDER granting 182 Motion to Continue; granting 183 Motion to Continue. Signed by Magistrate Judge Evelyn J. Furse on 6/9/2017. No attached document. (lnp) (Entered: 06/09/2017)
06/09/2017	193	<u>NOTICE OF HEARING ON MOTION</u> re: 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> : (Notice generated by EJF Chambers) Motion Hearing set for 6/23/2017 at 04:00 PM in Rm 8.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 06/09/2017)
06/13/2017	194	NOTICE of Withdrawal of Subpoena to IRS by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re 177 MOTION to Quash Subpoena to IRS and Memorandum in Support (Paul, Steven) (Entered: 06/13/2017)
06/14/2017		<u>NOTICE VACATING 177 Motion to Quash hearing</u> set for 6/15/2017 at 9:00 AM before Judge Evelyn J. Furse (Notice generated by EJF Chambers). Motion has been withdrawn. (lnp) (Entered: 06/14/2017)
06/15/2017	195	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 6/15/2017 re 170 MOTION for Protective Order and Memorandum in Support filed by USA, 178 MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to take discovery out of time and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS 170 MOTION for Protective Order and GRANTS 178 MOTION for Extension of Time to Complete Discovery. Counsel makes a stipulated oral motion for extension of time to extend the scheduling order dates. Court GRANTS the oral motion and instructs plaintiff's counsel to prepare and submit a proposed order. Attorney for Plaintiff: Erin Hines, Christopher Moran, Attorney for Defendant: Denver C. Snuffer, Jr., Steven R. Paul, Donald S. Reay. Court Reporter: Electronic.(Time Start: 9:01:46, Time End: 10:02:11, Room 8.400.)(lnp) (Entered: 06/15/2017)
06/16/2017	196	ORDER granting 170 Motion for Protective Order: Defendants shall not depose any representative of the USDOJ Tax Division. Signed by Magistrate Judge Evelyn J. Furse on 6/15/17 (alt) (Entered: 06/16/2017)

06/16/2017	197	ORDER granting 178 Motion for Extension of Time to Take Certain Discovery Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 6/15/17 (alt) (Entered: 06/16/2017)
06/23/2017	198	REPLY to Response to Motion re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Garriott, Daniel) (Entered: 06/23/2017)
06/23/2017	199	REPLY to Response to Motion re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> JOINDER filed by Defendants Roger Freeborn, R. Gregory Shepard. (Reay, Donald) (Entered: 06/23/2017)
06/23/2017	200	Minute Order. Proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 6/23/2017 re 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed</i> filed by USA. Court hears argument from counsel and GRANTS 163 and GRANTS 140 MOTION to Compel Todd Anderson to produce documents and GRANTS MOTION to Compel deposition testimony of Kenneth Birrell. Court instructs counsel to prepare and submit proposed orders. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant Steven R. Paul. Attorney for Movant: Byron Martin for Movant Todd Anderson. Attorney for Movant: Christopher S. Hill for Movant Kenneth Birrell. Court Reporter: Electronic.(Time Start: 4:04:05, Time End: 4:25:19, Room 8.400.) (lnp) (Entered: 06/23/2017)
06/26/2017	201	REQUEST to Submit for Decision re 173 Defendant's MOTION to Strike and Memorandum in Support <i>under Rule 12(f)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Paul, Steven) (Entered: 06/26/2017)
06/27/2017	202	MEMORANDUM DECISION AND ORDER denying 173 12(f) Motion to Strike. Signed by Judge David Nuffer on 6/27/17 (alt) (Entered: 06/27/2017)
06/29/2017	203	ORDER granting 140 Motion to Compel Deposition Testimony of Kenneth Birrell. Signed by Magistrate Judge Evelyn J. Furse on 6/29/17 (alt) (Entered: 06/29/2017)
07/03/2017	204	OBJECTIONS to <i>United States' Proposed Order</i> to 163 MOTION to Compel Todd Anderson to produce documents and Memorandum in Support <i>renewed to United States' Proposed Order</i> filed by Todd Anderson. (Attachments: # 1 Text of Proposed Order, # 2 Text of Proposed Order)(Martin, Byron) (Entered: 07/03/2017)
07/06/2017	205	AMENDED SCHEDULING ORDER following 6/15/2017 hearing: Discovery due by 11/3/2017. Motions due by 11/17/2017. Final Pretrial Conference set for 4/2/2018 at 02:30 PM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set for 4/16/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 7/6/2017. (jds) (Entered: 07/06/2017)
07/06/2017	206	ORDER granting 163 Motion to Compel Todd Anderson to Produce Certain Documents. Signed by Magistrate Judge Evelyn J. Furse on 7/6/17 (alt) (Entered: 07/06/2017)
07/07/2017	207	NOTICE of Todd Anderson's Response to Subpeona for Records by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re 206 Order on Motion to Compel (Paul, Steven) (Entered: 07/07/2017)
07/18/2017	208	REQUEST to Submit for Decision re 136 Notice of Conventional Filing filed by Plaintiff USA. (Moran, Christopher) (Entered: 07/18/2017)
07/21/2017	209	ORDER SEALED granting 137 Sealed Motion to compel deposition testimony of Certified Public Accountants (CPAs) Cody Buck, Ken Oveson, and David Mantyla. Signed by Magistrate Judge Evelyn J. Furse on 7/19/2017. (Attachments: # 1 Mailing Certificate) (jds) Modified on 10/20/2017; Unsealed per 233 Order (jds). (Entered: 07/21/2017)

08/17/2017	210	MOTION to Compel production of documents and Memorandum in Support, MOTION to Expedite and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 568, # 2 Exhibit 569, # 3 Exhibit 570, # 4 Exhibit 571, # 5 Exhibit 572, # 6 Exhibit 573 (excerpts), # 7 Exhibit 574 (excerpts), # 8 Exhibit 575 (excerpts), # 9 Exhibit 576 (excerpts), # 10 Exhibit 577) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/17/2017)
08/17/2017	211	MOTION to Withdraw as Attorney and Memorandum in Support <i>for Defendants Freeborn and Shepard</i> filed by Defendants Roger Freeborn, R. Gregory Shepard. (Attachments: # 1 Text of Proposed Order on Motion to Withdraw) Motions referred to Evelyn J. Furse.(Reay, Donald) (Entered: 08/17/2017)
08/18/2017	212	NOTICE OF HEARING ON MOTION re: 210 MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support : (Notice generated by EJJ Chambers) Motion Hearing set for 8/25/2017 at 10:30 AM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 08/18/2017)
08/21/2017	213	MOTION for Extension of Time to Complete Discovery and Memorandum in Support , MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 23, # 2 Exhibit 480, # 3 Exhibit 570, # 4 Exhibit 571, # 5 Exhibit 572, # 6 Exhibit 574, # 7 Exhibit 575, # 8 Exhibit 576, # 9 Exhibit 578, # 10 Exhibit 579, # 11 Exhibit 580, # 12 Exhibit 581, # 13 Exhibit 582) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/21/2017)
08/22/2017	214	AMENDED NOTICE OF HEARING ON MOTIONS re: 210 MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support , 213 MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support , 211 MOTION to Withdraw as Attorney and Memorandum in Support <i>for Defendants Freeborn and Shepard</i> : (Notice generated by EJJ Chambers) Motion Hearing set for 8/29/2017 at 02:00 PM in Rm 7.400 before Magistrate Judge Evelyn J. Furse. PLEASE NOTE THE DATE AND TIME CHANGE AND THE ADDITION OF MOTIONS 211 AND 213 . (lnp) (Entered: 08/22/2017)
08/24/2017		NOTICE VACATING HEARING ON MOTION RE: 211 MOTION to Withdraw as Attorney and Memorandum in Support for Defendants Freeborn and Shepard set for 8/29/2017 at 2:00 PM before Judge Evelyn J. Furse (Notice generated by EJJ Chambers) (lnp) (Entered: 08/24/2017)
08/25/2017	215	MEMORANDUM in Opposition re 213 MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # 1 Exhibit Anderson Letter)(Paul, Steven) (Entered: 08/25/2017)
08/29/2017	217	Minute Entry for proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 8/29/2017 re 210 MOTION to Compel production of documents and Memorandum in Support MOTION to Expedite and Memorandum in Support filed by USA, 213 MOTION for Extension of Time to Complete Discovery and Memorandum in Support MOTION to Expedite order on motion to depose Jessica Anderson out of time and Memorandum in Support filed by USA. Court hears argument from counsel and GRANTS 210 MOTION to Compel production of documents and GRANTS 213 MOTION for Extension of Time to Complete Discovery. Court instructs Government counsel to prepare and submit proposed orders for the two motions. Attorney for

		Plaintiff: Erin Healy Gallagher, Christopher Moran, Attorney for Defendant: Steven R. Paul. Court Reporter: Electronic.(Time Start: 2:05:44, Time End: 3:55:16, Room 7.400.) (lnp) (Entered: 08/31/2017)
08/30/2017	216	ORDER granting 211 Motion to Withdraw as Attorney. Attorney Donald S. Reay withdrawn from case for R. Gregory Shepard and Roger Freeborn. Signed by Magistrate Judge Evelyn J. Furse on 8/29/17 (alt) (Entered: 08/30/2017)
09/13/2017	218	ORDER granting 210 Motion to Compel Production of Documents. Signed by Magistrate Judge Evelyn J. Furse on 9/12/17 (alt) (Entered: 09/13/2017)
09/13/2017	219	ORDER granting 213 Motion for Extension of Time to Complete Discovery/Depose Jessica Anderson Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 9/12/17 (alt) (Entered: 09/13/2017)
09/15/2017	220	DESIGNATION OF EXPERTS Kurt O. Hawes, JD, MBA <i>and Certificate of Service of Expert Report of Kurt O. Hawes</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3.(Paul, Steven) (Entered: 09/15/2017)
09/15/2017	221	DESIGNATION OF EXPERTS Neldon P. Johnson <i>and Certificate of Service of Expert Report of Neldon P. Johnson</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3.(Paul, Steven) (Entered: 09/15/2017)
09/27/2017	222	NOTICE of Appearance by Steven R. Paul on behalf of Roger Freeborn, R. Gregory Shepard (Paul, Steven) (Entered: 09/27/2017)
09/27/2017	223	NOTICE of Appearance by Daniel B. Garriott on behalf of Roger Freeborn, R. Gregory Shepard (Garriott, Daniel) (Entered: 09/27/2017)
09/27/2017	224	NOTICE of Appearance by Denver C. Snuffer, Jr on behalf of Roger Freeborn, R. Gregory Shepard (Snuffer, Denver) (Entered: 09/27/2017)
09/28/2017	225	DESIGNATION OF EXPERTS Richard Jameson <i>and Certificate of Service of Expert Report</i> filed by Defendants Roger Freeborn, R. Gregory Shepard.(Paul, Steven) (Entered: 09/28/2017)
10/11/2017	226	MOTION for Sanctions and Memorandum in Support , MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 10/11/2017)
10/11/2017	227	NOTICE OF HEARING ON MOTION re: 226 MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support : (Notice generated by EJF Chambers) Motion Hearing set for 10/23/2017 at 03:30 PM in Rm 7.100 before Magistrate Judge Evelyn J. Furse. (lnp) (Entered: 10/11/2017)
10/12/2017	228	MOTION to Unseal Document 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla filed by USA and Memorandum in Support <i>and Doc. No. 209 (Court's Order)</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 660, Letter of 8/16/2017 to Defendants' counsel, # 2 Exhibit Pl. Ex. 661, Letter of 9/7/2017 to Eric Benson, # 3 Exhibit Pl. Ex. 662, Letter of 9/15/2017 from Eric Benson, to counsel for the United States, # 4 Exhibit PL. Ex. 663, Email Correspondence between Eric Benson and Christopher Moran) Motions referred to Evelyn J. Furse.(Moran, Christopher) (Entered: 10/12/2017)
10/18/2017	229	MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit 664, # 2 Exhibit 665, # 3 Exhibit 666, # 4 Exhibit 667) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 10/18/2017)

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10/19/2017	230	DOCKET TEXT ORDER Any opposition to United States Motion to Depose Richard Jameson Out of Time 229 shall be filed by 9:00am Monday, October 23, 2017. No attached document. Signed by Magistrate Judge Evelyn J. Furse on 10/19/2017. (nas) (Entered: 10/19/2017)
10/20/2017	231	RESPONSE to Motion re 226 MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 10/20/2017)
10/20/2017	232	MEMORANDUM in Opposition re 229 MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Cover Page of Jameson Deposition, # 2 Exhibit Excerpt from Jameson Expert Report, # 3 Exhibit Jameson Deposition Word Index Excerpt)(Paul, Steven) (Entered: 10/20/2017)
10/20/2017	233	ORDER granting 228 Motion to Unseal Document 209 Order on Sealed Motion and 137 SEALED MOTION to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla. Signed by Magistrate Judge Evelyn J. Furse on 10/20/2017. (jds) (Entered: 10/20/2017)
10/20/2017		NOTICE of Unsealing Documents 137 Motion to Compel and 209 Order granting the Motion to Compel per 233 ORDER. (jds) (Entered: 10/20/2017)
10/23/2017	234	Minute Order. Proceedings held before Magistrate Judge Evelyn J. Furse: Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions and Memorandum in Support MOTION to Expedite order on motion for sanctions and Memorandum in Support filed by USA, 229 MOTION for Extension of Time to Complete Discovery and Memorandum in Support filed by USA. Court hears argument from counsel. Plaintiff's counsel submits exhibits. Court seals a portion of the exhibits presented. After hearing argument from counsel, the Court TAKES UNDER ADVISEMENT 226 Motion for Sanctions/ 226 Motion to Expedite and also TAKES UNDER ADVISEMENT 229 Motion for Extension of Time to Complete Discovery. Court to issue written orders. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant Steven R. Paul. Court Reporter: Electronic. (Time Start: 3:37:15, Time End: 5:10:59, Room 7.100.) (lnp) (Entered: 10/23/2017)
10/25/2017	235	ORDER GRANTING 226 Expedited Motion for Sanctions. Signed by Magistrate Judge Evelyn J. Furse on 10/25/2017. (nas) (Entered: 10/25/2017)
10/25/2017	236	ORDER GRANTING 229 Motion to Depose Richard Jameson Out of Time. Signed by Magistrate Judge Evelyn J. Furse on 10/25/2017. (nas) (Entered: 10/25/2017)
10/26/2017		Modification of Docket re 209 Order on Sealed Motion. Correction: Document has been unsealed per 233 Order. (alt) (Entered: 10/26/2017)
11/01/2017	237	CERTIFICATE OF SERVICE by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard re 235 Order on Motion for Sanctions, Order on Motion to Expedite (Paul, Steven) (Entered: 11/01/2017)
11/01/2017	238	OBJECTION TO MAGISTRATE JUDGE DECISION to District Court by International Automated Systems, Neldon Johnson, LTB1, RaPower-3 re 235 Order on Motion for Sanctions, Order on Motion to Expedite (Paul, Steven) (Entered: 11/01/2017)
11/01/2017	239	MOTION to Stay re 235 Order on Motion for Sanctions, Order on Motion to Expedite and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 11/01/2017)

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11/01/2017	240	AFFIDAVIT/DECLARATION of Neldon Johnson in Support re 239 MOTION to Stay re 235 Order on Motion for Sanctions, Order on Motion to Expedite and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Attachments: # 1 Exhibit Email Threat of Lawsuit)(Paul, Steven) (Entered: 11/01/2017)
11/02/2017	241	DOCKET TEXT ORDER GRANTING 239 Motion to Stay. Enforcement of the Order Granting Plaintiff's Expedited Motion for Sanctions 235 is stayed pending review of Defendants' Objection to the Order 238 by Judge Nuffer. Signed by Magistrate Judge Evelyn J. Furse on 11/2/2017. (nas) (Entered: 11/02/2017)
11/02/2017	242	**SEALED EXHIBITS** re 234 Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions. (Attachments: # 1 Plaintiff's Exhibit 613 , # 2 Plaintiff's Exhibits 668 , # 3 Plaintiff's Exhibits 669)(lnp) (Entered: 11/02/2017)
11/02/2017	243	EXHIBIT 181 filed by USA re 234 Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions.(lnp) (Entered: 11/02/2017)
11/02/2017	244	EXHIBIT 659 filed by USA re 242 Sealed Document and 234 Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions.(lnp) (Entered: 11/02/2017)
11/02/2017	245	EXHIBIT 668 filed by USA re 242 Sealed Document and 234 Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions. (lnp) (Entered: 11/02/2017)
11/02/2017	246	EXHIBIT 669 filed by USA re 242 Sealed Document and 234 Motion Hearing held on 10/23/2017 re 226 MOTION for Sanctions. (lnp) (Entered: 11/02/2017)
11/14/2017	247	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Hearing for Sanctions and Extension of Time to Complete Discovery held on October 23, 2017 before Judge Evelyn J. Furse. Court Reporter/Transcriber Karen Murakami, Telephone number 801-328-4800.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/5/2017. Redacted Transcript Deadline set for 12/15/2017. Release of Transcript Restriction set for 2/12/2018. (las) Modified on 2/12/2018 by removing restricted text (las). (Entered: 11/14/2017)</p>
11/17/2017	249	MOTION in Limine and Memorandum in Support to <i>Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 1, # 2 Exhibit Pl. Ex. 20, # 3 Exhibit Pl. Ex. 24, # 4 Exhibit Pl. Ex. 25, # 5 Exhibit Pl. Ex. 40, # 6 Exhibit Pl. Ex. 78, # 7 Exhibit Pl. Ex. 112, # 8 Exhibit Pl. Ex. 163, # 9 Exhibit Pl. Ex. 214, # 10 Exhibit Pl. Ex. 216, # 11 Exhibit Pl. Ex. 244, # 12 Exhibit Pl. Ex. 282, # 13 Exhibit Pl. Ex. 492, # 14 Exhibit Pl. Ex. 518, # 15 Exhibit Pl. Ex. 520, # 16 Exhibit Pl. Ex.625, # 17 Exhibit Pl. Ex. 631, # 18 Exhibit Pl. Ex. 632, # 19 Exhibit Pl. Ex. 637, # 20 Exhibit Pl. Ex. 638, # 21 Exhibit Pl. Ex. 639, # 22 Exhibit Pl. Ex. 640, # 23 Exhibit Pl. Ex. 641, # 24 Exhibit Pl. Ex. 651 (Part 1), Kurt Hawes' Expert Report, # 25 Exhibit Pl. Ex. 651 (Part 2), Kurt Hawes' Expert Report, # 26 Exhibit Pl. Ex. 659, Richard Jameson's

		Expert Report, # 27 Exhibit Pl. Ex. 666, Deposition of Richard Jameson, # 28 Exhibit Pl. Ex. 670, # 29 Exhibit Pl. Ex. 671, # 30 Exhibit Pl. Ex. 672, Deposition of Kurt Hawes, # 31 Exhibit Pl. Ex. 673, Deposition of LTB1, LLC, # 32 Exhibit Pl. Ex. 674, # 33 Text of Proposed Order)(Moran, Christopher) (Entered: 11/17/2017)
11/17/2017	250	MOTION in Limine and Memorandum in Support to <i>Exclude "Expert" Testimony of Neldon Johnson</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 1, # 2 Exhibit Pl. Ex. 24, # 3 Exhibit Pl. Ex. 25, # 4 Exhibit Pl. Ex. 40, # 5 Exhibit Pl. Ex. 214, # 6 Exhibit Pl. Ex. 216, # 7 Exhibit Pl. Ex. 492, # 8 Exhibit Pl. Ex. 507, # 9 Exhibit Pl. Ex. 520, # 10 Exhibit Pl. Ex. 579, Deposition of Neldon Johnson, volume 1, # 11 Exhibit Pl. Ex. 643, Neldon Johnson's Expert Report, # 12 Exhibit Pl. Ex. 646, # 13 Exhibit Pl. Ex. 647, # 14 Exhibit Pl. Ex. 648, # 15 Exhibit Pl. Ex. 649, # 16 Exhibit Pl. Ex. 650, # 17 Exhibit Pl. Ex. 673, # 18 Exhibit Pl. Ex. 674, # 19 Exhibit Pl. Ex. 681, Deposition of Neldon Johnson, volume 2, # 20 Text of Proposed Order)(Hines, Erin) (Entered: 11/17/2017)
11/17/2017	251	MOTION for Partial Summary Judgment and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order)(Gallagher, Erin) Modified on 11/20/2017: corrected motion relief (alt) (Entered: 11/17/2017)
11/17/2017	252	MOTION to Appoint Receiver and Memorandum in Support to <i>Freeze Assets of Defendants Neldon Johnson, RaPower-3, and International Automated Systems</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 1, # 2 Exhibit Pl. Ex. 2, # 3 Exhibit Pl. Ex. 24, # 4 Exhibit Pl. Ex. 25, # 5 Exhibit Pl. Ex. 32, # 6 Exhibit Pl. Ex. 40, # 7 Exhibit Pl. Ex. 93, # 8 Exhibit Pl. Ex. 125, # 9 Exhibit Pl. Ex. 214, # 10 Exhibit Pl. Ex. 216, # 11 Exhibit Pl. Ex. 246, # 12 Exhibit Pl. Ex. 279, # 13 Exhibit Pl. Ex. 294, # 14 Exhibit Pl. Ex. 492, # 15 Exhibit Pl. Ex. 496, # 16 Exhibit Pl. Ex. 511, # 17 Exhibit Pl. Ex. 520, # 18 Exhibit Pl. Ex. 531, # 19 Exhibit Pl. Ex. 532, # 20 Exhibit Pl. Ex. 579, # 21 Exhibit Pl. Ex. 581, # 22 Exhibit Pl. Ex. 646, # 23 Exhibit Pl. Ex. 647, # 24 Exhibit Pl. Ex. 648, # 25 Exhibit Pl. Ex. 649, # 26 Exhibit Pl. Ex. 650, # 27 Exhibit Pl. Ex. 666, # 28 Exhibit Pl. Ex. 673, # 29 Exhibit Pl. Ex. 674, # 30 Exhibit Pl. Ex. 677, # 31 Exhibit Pl. Ex. 681, # 32 Exhibit Pl. Ex. 682, # 33 Exhibit Pl. Ex. 683, # 34 Exhibit Pl. Ex. 684, # 35 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) Modified on 11/20/2017: corrected text (alt) (Entered: 11/17/2017)
11/17/2017	253	Defendant's MOTION in Limine and Memorandum in Support to <i>Strike Expert Report and Exclude Testimony of Thomas Mancini</i> filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3. (Attachments: # 1 Exhibit Expert Report of Thomas Mancini, # 2 Exhibit Deposition of Thomas Mancini)(Snuffer, Denver) Modified on 11/20/2017: corrected text (alt) (Entered: 11/17/2017)
11/17/2017	254	APPENDIX to 251 MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 1</i> . (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 8A, # 4 Exhibit 16, # 5 Exhibit 17, # 6 Exhibit 19, # 7 Exhibit 20, # 8 Exhibit 24, # 9 Exhibit 25, # 10 Exhibit 32, # 11 Exhibit 34, # 12 Exhibit 40, # 13 Exhibit 43, # 14 Exhibit 48, # 15 Exhibit 49, # 16 Exhibit 54, # 17 Exhibit 61, # 18 Exhibit 70, # 19 Exhibit 72, # 20 Exhibit 77, # 21 Exhibit 80, # 22 Exhibit 85, # 23 Exhibit 88, # 24 Exhibit 91, # 25 Exhibit 93, # 26 Exhibit 94, # 27 Exhibit 95, # 28 Exhibit 109, # 29 Exhibit 112, # 30 Exhibit 114, # 31 Exhibit 119, # 32 Exhibit 121, # 33 Exhibit 125, # 34 Exhibit 141, # 35 Exhibit 157, # 36 Exhibit 158, # 37 Exhibit 159, # 38 Exhibit 174, # 39 Exhibit 181, # 40 Exhibit 185, # 41 Exhibit 186, # 42 Exhibit 188, # 43 Exhibit 189, # 44 Exhibit 204, # 45 Exhibit 207, # 46 Exhibit 213, # 47 Exhibit 214, # 48 Exhibit 216, # 49 Exhibit 217, # 50 Exhibit 218)(Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	255	APPENDIX to 251 MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 2</i> . (Attachments: # 1 Exhibit 220, # 2 Exhibit 237, # 3

		Exhibit 246, # 4 Exhibit 249, # 5 Exhibit 260, # 6 Exhibit 267, # 7 Exhibit 270, # 8 Exhibit 279, # 9 Exhibit 282, # 10 Exhibit 292, # 11 Exhibit 294, # 12 Exhibit 297, # 13 Exhibit 323, # 14 Exhibit 340, # 15 Exhibit 341, # 16 Exhibit 348, # 17 Exhibit 352, # 18 Exhibit 383, # 19 Exhibit 412, # 20 Exhibit 419, # 21 Exhibit 420, # 22 Exhibit 424, # 23 Exhibit 425, # 24 Exhibit 426, # 25 Exhibit 439, # 26 Exhibit 441, # 27 Exhibit 459, # 28 Exhibit 460, # 29 Exhibit 462, # 30 Exhibit 463, # 31 Exhibit 464, # 32 Exhibit 465, # 33 Exhibit 468, # 34 Exhibit 469, # 35 Exhibit 470, # 36 Exhibit 471, # 37 Exhibit 473, # 38 Exhibit 474, # 39 Exhibit 481, # 40 Exhibit 490, # 41 Exhibit 491, # 42 Exhibit 492, # 43 Exhibit 493, # 44 Exhibit 496, # 45 Exhibit 497, # 46 Exhibit 498, # 47 Exhibit 499, # 48 Exhibit 500, # 49 Exhibit 501, # 50 Exhibit 502)(Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	256	APPENDIX to 251 MOTION for Summary Judgment and Memorandum in Support <i>partial</i> filed by Plaintiff USA <i>vol. 3</i> . (Attachments: # 1 Exhibit 503, # 2 Exhibit 504, # 3 Exhibit 509, # 4 Exhibit 511, # 5 Exhibit 512, # 6 Exhibit 520, # 7 Exhibit 531, # 8 Exhibit 532, # 9 Exhibit 533, # 10 Exhibit 535, # 11 Exhibit 539, # 12 Exhibit 557, # 13 Exhibit 558, # 14 Exhibit 579, # 15 Exhibit 581, # 16 Exhibit 666, # 17 Exhibit 673, # 18 Exhibit 674, # 19 Exhibit 676, # 20 Exhibit 677, # 21 Exhibit 678, # 22 Exhibit 679, # 23 Exhibit 680, # 24 Exhibit 681, # 25 Exhibit 682, # 26 Exhibit 683, # 27 Exhibit 685, # 28 Exhibit 686, # 29 Exhibit 687, # 30 Exhibit 688, # 31 Exhibit 689, # 32 Exhibit 690, # 33 Exhibit 693, # 34 Exhibit 694, # 35 Exhibit 695, # 36 Exhibit 696, # 37 Exhibit 697) (Gallagher, Erin) (Entered: 11/17/2017)
11/17/2017	257	Defendant's MOTION to Dismiss and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3. (Attachments: # 1 Affidavit Declaration of Paul W. Jones (With Exhibits))(Snuffer, Denver) (Entered: 11/17/2017)
11/20/2017	258	Motions No Longer Referred: 252 MOTION to Appoint Receiver and Memorandum in Support <i>To Freeze Assets of Defendants Neldon Johnson, RaPower-3, LLC, and International Automated Systems, Inc.</i> District Judge to handle the Motion. (lnp) (Entered: 11/20/2017)
11/22/2017	259	MOTION for Extension of Time to File Response/Reply as to 252 MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> , 251 MOTION for Partial Summary Judgment, 249 MOTION in Limine <i>to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> , 250 MOTION in Limine <i>to Exclude "Expert" Testimony of Neldon Johnson</i> and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Notice of Filing Doc. 249, # 2 Exhibit Notice of Filing Doc. 250, # 3 Exhibit Notice of Filing Doc. 251, 254,255,256, # 4 Exhibit Notice of Filing Doc. 252) Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 11/22/2017)
11/27/2017	260	MEMORANDUM in Opposition re 259 MOTION for Extension of Time to File Response/Reply as to 252 MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> , 251 MOTION for Partial Summary Judgment, 249 MOTION filed by Plaintiff USA. (Attachments: # 1 Exhibit 698)(Gallagher, Erin) (Entered: 11/27/2017)
11/27/2017	261	ORDER granting in part and denying in part 259 Motion for Extension of Time to File Response/Reply re 252 MOTION to Appoint Receiver <i>to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> , 253 Defendant's MOTION in Limine <i>to Strike Expert Report and Exclude Testimony of Thomas Mancini</i> , 250 MOTION in Limine <i>to Exclude "Expert" Testimony of Neldon Johnson</i> , 257 Defendant's MOTION to Dismiss, 249 MOTION in Limine <i>to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> , 251 MOTION for Partial Summary Judgment: Responses

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 due by 12/17/2017, Replies due by 1/12/2018. Signed by Judge David Nuffer on 11/27/17
 (alt) (Entered: 11/27/2017)

12/15/2017	262	MEMORANDUM in Opposition re 257 Defendant's MOTION to Dismiss filed by Plaintiff USA. (Gallagher, Erin) (Entered: 12/15/2017)
12/15/2017	263	MEMORANDUM in Opposition re 253 Defendant's MOTION in Limine to <i>Strike Expert Report and Exclude Testimony of Thomas Mancini</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 15, # 2 Exhibit Pl. Ex. 699, # 3 Exhibit Pl. Ex. 700, # 4 Exhibit Defs. Ex. 1005, # 5 Exhibit Defs. Ex. 1006)(Gallagher, Erin) (Entered: 12/15/2017)
12/17/2017	264	Defendant's RESPONSE to Motion re 249 MOTION in Limine to <i>Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	265	Defendant's MEMORANDUM in Opposition re 251 MOTION for Partial Summary Judgment filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit List of N. Johnson Patents, # 2 Exhibit Excerpts from Dep. of Thomas R. Mancini, # 3 Exhibit Excerpts from Dep. of RaPower3, # 4 Exhibit Excerpts from Dep. Todd F. Anderson, # 5 Exhibit Anderson Letter, # 6 Exhibit Excerpts from Dep. Jessica Anderson, # 7 Exhibit Excerpts from Dep. of Kenneth W. Birrell, # 8 Exhibit Excerpts from Dep. IAS Inc., # 9 Exhibit Plaintiff's Exhibit 466, # 10 Exhibit Plaintiff's Exhibit 363)(Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	266	Defendant's AFFIDAVIT/DECLARATION of Neldon Johnson in Opposition re 251 MOTION for Partial Summary Judgment filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	267	NOTICE of Death of Roger Freeborn by Roger Freeborn (Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	268	Defendant's MEMORANDUM in Opposition re 252 MOTION to Appoint Receiver to <i>Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit 2013 Dept. of Energy Renewable Energy Data Book)(Snuffer, Denver) (Entered: 12/17/2017)
12/17/2017	269	Defendant's MEMORANDUM in Opposition re 250 MOTION in Limine to <i>Exclude "Expert" Testimony of Neldon Johnson</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit List of Patents of N. Johnson)(Snuffer, Denver) (Entered: 12/17/2017)
01/08/2018	270	Motions No Longer Referred: 252 MOTION to Appoint Receiver to <i>Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems</i> (ms) (Entered: 01/08/2018)
01/12/2018	271	Plaintiff's REPLY to Response to Motion re 249 MOTION in Limine to <i>Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson</i> filed by Plaintiff USA. (Moran, Christopher) (Entered: 01/12/2018)
01/12/2018	272	Defendant's REPLY to Response to Motion re 253 Defendant's MOTION in Limine to <i>Strike Expert Report and Exclude Testimony of Thomas Mancini</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3,

		R. Gregory Shepard. (Attachments: # 1 Exhibit Expert Witness [Dr. Tom Mancini] Statement of Work)(Snuffer, Denver) (Entered: 01/12/2018)
01/12/2018	273	Defendant's REPLY to Response to Motion re 257 Defendant's MOTION to Dismiss filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) Modified on 1/12/2018: removed unnecessary text (alt) (Entered: 01/12/2018)
01/12/2018	274	Plaintiff's REPLY to Response to Motion re 250 MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	275	NOTICE OF FILING of Exhibit List re 250 MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	276	NOTICE OF FILING of of Exhibit List re 249 MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson filed by Plaintiff USA. (Moran, Christopher) (Entered: 01/12/2018)
01/12/2018	277	REPLY to Response to Motion re 251 MOTION for Partial Summary Judgment filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit Pl. Ex. 23A, # 3 Exhibit Pl. Ex. 355, # 4 Exhibit Pl. Ex. 358, # 5 Exhibit Pl. Ex. 361, # 6 Exhibit Pl. Ex. 362, # 7 Exhibit Pl. Ex. 364, # 8 Exhibit Pl. Ex. 479, # 9 Exhibit Pl. Ex. 548, # 10 Exhibit Pl. Ex. 580, # 11 Exhibit Pl. Ex. 703, # 12 Exhibit Pl. Ex. 704)(Gallagher, Erin) (Entered: 01/12/2018)
01/12/2018	278	Plaintiff's REPLY to Response to Motion re 252 MOTION to Appoint Receiver to Freeze Assets of Dfts Neldon Johnson, RaPower-3, and International Automated Systems filed by Plaintiff USA. (Hines, Erin) (Entered: 01/12/2018)
01/12/2018	279	RESPONSE re 265 Memorandum in Opposition to Motion, re Evidentiary Objections filed by USA. (Attachments: # 1 Exhibit Pl. Ex. 701, United States' Notice of Witness Depositions (including Frank Lunn), # 2 Exhibit Pl. Ex. 702, United States' Notice of Witness Depositions (including Robert Aulds))(Gallagher, Erin) Modified on 1/12/2018: corrected text (alt) (Entered: 01/12/2018)
01/22/2018		Deadlines/Hearings terminated. Past-due deadlines terminated to make the hearing/deadlines report up-to-date. (asb) (Entered: 01/22/2018)
01/22/2018	280	DOCKET TEXT ORDER denying 253 Defendant's Motion in Limine. For the reasons set forth in Plaintiffs Opposition 263 , Defendants motion is DENIED. Counsel for Plaintiff is directed to prepare and submit a proposed Order denying the Motion. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms) (Entered: 01/22/2018)
01/22/2018	281	DOCKET TEXT ORDER denying 257 Defendant's Motion to Dismiss. For the reasons set forth in Plaintiffs Memorandum in Opposition 260 , Defendants motion is DENIED. Counsel for Plaintiff is directed to prepare and submit a proposed Order. The proposed Order should contain detailed reasoning and citations of legal authority. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms) (Entered: 01/22/2018)
01/22/2018	282	DOCKET TEXT ORDER deferring ruling on 249 Motion in Limine; deferring ruling on 250 Motion in Limine. Plaintiff's Motions in Limine will be reserved until trial. The experts should prepare to testify. Signed by Judge David Nuffer on 01/22/2018. No attached document. (ms) (Entered: 01/22/2018)
01/24/2018	283	MEMORANDUM DECISION AND ORDER overruling objection and affirming Magistrate Judge's 235 Order on 226 Motion for Sanctions. Signed by Judge David Nuffer on 1/24/18 (alt) (Entered: 01/24/2018)

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01/25/2018	284	AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Dates of 10 Day Bench Trial: April 2, 3, 4, 5, 19, 20, 23, 24; May 9; and June 4. Signed by Judge David Nuffer on 01/25/2018. (ms) (Entered: 01/25/2018)
01/26/2018		Set/Reset Hearings: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10-Day Bench Trial set for 4/2/2018 4/3/2018 4/4/2018 4/5/2018 4/19/2018 04/20/2018 4/23/2018 4/24/2018 5/9/2018 6/4/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 01/26/2018)
01/31/2018	285	OBJECTIONS to 281 Order on Motion to Dismiss, filed by Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Text of Proposed Order)(Paul, Steven) (Entered: 01/31/2018)
01/31/2018	286	OBJECTIONS to 280 Order on Motion in Limine, filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Text of Proposed Order)(Paul, Steven) (Entered: 01/31/2018)
02/05/2018	287	AMENDED SCHEDULING ORDER: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10 Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Dates of 10 Day Bench Trial: April 2, 3, 4, 5, 19, 20, 23, 24, 25, 26; and if necessary May 9; and June 4. Signed by Judge David Nuffer on 02/05/2018. (ms) (Entered: 02/05/2018)
02/07/2018	288	TRIAL ORDER with instructions to counsel: Final Pretrial Conference set for 3/19/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. 10-Day Bench Trial set to begin 4/2/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Signed by Judge David Nuffer on 2/7/18 (alt) (Entered: 02/07/2018)
02/09/2018	289	MOTION in Limine to Reinstate Trial by Jury and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) Modified on 3/7/2018: corrected motion relief (alt) (Entered: 02/09/2018)
02/13/2018	290	MOTION for Attorney Fees and Memorandum in Support <i>re Motions to Compel</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 382, USA Notice of Oveson, Buck, Mantyla Depositions, # 2 Exhibit Pl. Ex. 712, Itemized Expenses, # 3 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Moran, Christopher) Modified on 2/27/2018: removed excess text (alt) (Entered: 02/13/2018)
02/20/2018	291	DOCKET TEXT ORDER taking under advisement 289 Motion in Limine. Response to Defendants' Motion in Limine shall be due on or before February 26, 2018. Signed by Judge David Nuffer on 02/20/2018. Docket Text Only. No attached document. (ms) (Entered: 02/20/2018)
02/20/2018	292	MOTION for Leave to File Excess Pages and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Gallagher, Erin) (Entered: 02/20/2018)
02/20/2018	293	ORDER granting 292 Motion for Leave to File Excess Pages. Signed by Magistrate Judge Evelyn J. Furse on 2/20/2018. (blh) (Entered: 02/20/2018)
02/23/2018	294	Proposed Exhibit List <i>Defendants' Pretrial Disclosures</i> by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard.. (Garriott, Daniel) (Entered: 02/23/2018)

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02/23/2018	295	OBJECTIONS filed by International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 02/23/2018)
02/23/2018	296	OBJECTIONS filed by International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 02/23/2018)
02/26/2018	297	NOTICE OF FILING of United States' Deposition Designations for Robert Aulds filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 687, United States' Deposition Designations for Robert Aulds)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	298	NOTICE OF FILING of United States' Deposition Designations for Roger Freeborn filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 688 United States' Deposition Designations for Roger Freeborn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	299	NOTICE OF FILING of United States' Deposition Designations for Peter Gregg filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 689. United States' Deposition Designations for Peter Gregg)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	300	NOTICE OF FILING of United States' Deposition Designations of Roger Halvorsen filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 690, United States' Deposition Designations of Roger Halvorsen)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	301	NOTICE OF FILING of United States' Deposition Designations of John Howell filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 683, United States' Deposition Designations of John Howell)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	302	NOTICE OF FILING of United States' Deposition Designations for Neldon Johnson filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 579, United States' Deposition Designations of Neldon Johnson (VOL. I), # 2 Exhibit Pl. Ex, 581, United States' Deposition of International Automated Systems (Neldon Johnson, designee), # 3 Exhibit Pl. Ex. 673, United States' Deposition Designations of LTBI, LLC (Neldon Johnson, designee), # 4 Exhibit Pl. Ex. 681, United States' Deposition Designations of Neldon Johnson (VOL. II), # 5 Exhibit Pl. Ex. 682, United States' Deposition Designations of RaPower-3, LLC (Neldon Johnson, designee))(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	303	NOTICE OF FILING of United States' Deposition Designations for Frank Lunn filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 693, United States' Deposition Designations for Frank Lunn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	304	NOTICE OF FILING of United States' Deposition Designations for PacifiCorp filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 713, United States' Deposition Designations for PacifiCorp)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	305	NOTICE OF FILING of United States' Deposition Designations for Mike Penn filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 448, Deposition Designations for Mike Penn)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	306	NOTICE OF FILING of United States' Deposition Designations for R. Gregory Shepard filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 685, United States' Deposition Designations for R. Gregory Shepard)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	307	NOTICE OF FILING of United States' Deposition Designations for Brian Zeleznik filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 697, United States' Deposition Designations for Brian Zeleznik)(Moran, Christopher) (Entered: 02/26/2018)
02/26/2018	308	MOTION for Leave to File pretrial disclosures nunc pro tunc and Memorandum in Support <i>unopposed</i> filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 02/26/2018)

02/26/2018	309	MEMORANDUM in Opposition re 289 MOTION in Limine and Memorandum in Support to <i>Reinstate Trial by Jury</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit 777)(Gallagher, Erin) (Entered: 02/26/2018)
02/27/2018	310	WRITTEN ORDER following 280 Docket Text Order of 1/22/18 denying 253 Motion in Limine. Signed by Judge David Nuffer on 2/27/18 (alt) (Entered: 02/27/2018)
02/27/2018	311	WRITTEN ORDER following 281 Docket Text Order of 1/22/18 denying 257 Motion to Dismiss. Signed by Judge David Nuffer on 2/27/18 (alt) (Entered: 02/27/2018)
02/27/2018	312	ORDER granting 308 Motion for Leave to File Pretrial Disclosures Nunc Pro Tunc. Signed by Magistrate Judge Evelyn J. Furse on 2/27/18 (alt) (Entered: 02/27/2018)
02/27/2018	313	MEMORANDUM in Opposition re 290 MOTION for Attorney Fees re <i>Motions to Compel</i> filed by Respondent Heideman & Associates. (Attachments: # 1 Exhibit Exhibit 1_Birrell, Kenneth W. mini, # 2 Exhibit Exhibit 2-Buck, Cody Michael-mini, # 3 Exhibit Exhibit 3_Oveson, Kenneth Wayne -mini, # 4 Exhibit Exhibit 4_Mantyla, David - mini) (Heideman, Justin) (Entered: 02/27/2018)
02/28/2018	314	Proposed Witness List by USA. (Hines, Erin) (Entered: 02/28/2018)
02/28/2018	315	Proposed Exhibit List by Plaintiff USA.. (Hines, Erin) (Entered: 02/28/2018)
02/28/2018	316	NOTICE OF FILING of Pretrial Disclosure re: <i>Deposition Designations</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 02/28/2018)
03/01/2018	317	OBJECTIONS to 290 MOTION for Attorney Fees re <i>Motions to Compel</i> filed by Roger Freeborn, International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/01/2018)
03/02/2018	318	MEMORANDUM DECISION AND ORDER denying 251 Motion for Partial Summary Judgment; denying without prejudice 252 Motion to Appoint Receiver. Signed by Judge David Nuffer on 3/2/18 (alt) (Entered: 03/02/2018)
03/05/2018	319	Defendant's MOTION in Limine and Memorandum in Support <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/05/2018)
03/05/2018	320	ERRATA to 319 Defendant's MOTION in Limine and Memorandum in Support <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard . (Attachments: # 1 Exhibit Plaintiff's Exhibit 752, # 2 Exhibit Plaintiff's Exhibit 734, # 3 Exhibit Plaintiff's Exhibit 750)(Snuffer, Denver) (Entered: 03/05/2018)
03/07/2018	321	<u>AMENDED NOTICE OF HEARING:</u> Final Pretrial Conference reset for Monday, 3/19/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. (time change only) (asb) (Entered: 03/07/2018)
03/07/2018		NOTICE OF ERROR/CORRECTION re 289 MOTION to Reinstate Trial by Jury. Error: Filer selected wrong motion relief - motion is not seeking 'In Limine' relief. Correction: The motion relief has been corrected to "Miscellaneous Relief" and entry text corrected. (alt) (Entered: 03/07/2018)
03/07/2018	322	MEMORANDUM DECISION AND ORDER denying 289 Motion to Reinstate Trial by Jury. Signed by Judge David Nuffer on 3/7/18 (alt) (Entered: 03/07/2018)
03/08/2018	323	DOCKET TEXT ORDER taking under advisement 319 Motion in Limine. Response is

03/08/2018	324	Docket Text Order - The briefing on the demand for jury trial has revealed a wide range of possibilities for measurement and proof of a disgorgement amount. If the Motion in Limine 319 is not granted, the parties must submit briefs on or before noon March 26, 2018 on those issues. Specifically, the parties must provide legal authority for (1) measuring disgorgement by the amount of (a) taxes avoided by investors in Defendant RaPower; (b) gross profit of RaPower; (c) net profit of RaPower; (d) income of individual defendants from RaPower; or any other measure, and (2) who, in the event net profit is a proper measure, bears the burden of proof on expenses RaPower incurred in its business. Docket text only. No attachment. Signed by Judge David Nuffer on 3/8/2018. (ms) (Entered: 03/08/2018)
03/08/2018	325	Defendant's MOTION Rule 60(a) Oversight, Request to File Reply to Doc. 309 (Plaintiff's Opposition to Reinstate Jury re 322 Order on Motion for Miscellaneous Relief, Memorandum Decision and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 03/08/2018)
03/08/2018	326	Defendant's REPLY to Response to Motion re 289 MOTION to Reinstate Trial by Jury filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/08/2018)
03/09/2018	327	NOTICE OF FILING of United States' Objections and Counter-Designations to Defendants' Deposition Counter-Designations re 294 Exhibit List(Proposed) filed by Plaintiff USA. (Hines, Erin) (Entered: 03/09/2018)
03/09/2018	328	OBJECTIONS to 294 Exhibit List(Proposed) filed by USA. (Attachments: # 1 Exhibit 411 excerpts, # 2 Exhibit 449, # 3 Exhibit 450, # 4 Exhibit 451, # 5 Exhibit 452, # 6 Exhibit 453 excerpts, # 7 Exhibit 644 excerpts, # 8 Exhibit 789 excerpts)(Gallagher, Erin) (Entered: 03/09/2018)
03/09/2018	329	Redacted OBJECTIONS to 296 Objections filed by USA. (Attachments: # 1 Exhibit Pl. Ex. 742-A, # 2 Exhibit Pl. Ex. 742-B, # 3 Exhibit Pl. Ex. 782, # 4 Exhibit Pl. Ex. 783, # 5 Exhibit Pl. Ex. 784, # 6 Exhibit Pl. Ex. 785, # 7 Exhibit Pl. Ex. 786, # 8 Exhibit Pl. Ex. 787, # 9 Exhibit Pl. Ex. 788)(Moran, Christopher) Modified on 3/9/2018: added "Redacted" to text (alt) (Entered: 03/09/2018)
03/09/2018	330	MOTION for Leave to File Sealed Document re 329 Objections, filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Moran, Christopher) (Entered: 03/09/2018)
03/09/2018	331	**SEALED DOCUMENT** SEALED EXHIBITS 742-A and 742-B TO 329 Objections, filed by Plaintiff USA NOTE: Filer is instructed to serve the <u>sealed document</u> on all other parties.. (Attachments: # 1 Exhibit Pl. Ex. 742-A, # 2 Exhibit Pl. Ex. 742-B)(Moran, Christopher) Modified on 3/14/2018: updated text (alt) (Entered: 03/09/2018)
03/12/2018	332	MEMORANDUM in Opposition re 319 Defendant's MOTION in Limine <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 666-A, # 2 Exhibit Pl. Ex. 683-A, # 3 Supplement (unpublished case, SEC v. Razmilovic, Case No. CV-04-2276 (E.D. NY), Doc. No. 194)(Moran, Christopher) (Entered: 03/12/2018)
03/12/2018	333	DOCKET TEXT ORDER GRANTING 330 Motion for Leave to File Sealed Document. Signed by Magistrate Judge Evelyn J. Furse on 3/12/2018. No attached document. (nas)

		(Entered: 03/12/2018)
03/12/2018	334	Proposed Findings of Fact by USA. (Gallagher, Erin) (Entered: 03/12/2018)
03/12/2018	335	Proposed Findings of Fact by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 03/12/2018)
03/13/2018	336	MEMORANDUM DECISION and ORDER granting 325 Motion Defendants' Rule 60(a) Request for Relief Based on Oversight and confirming Order Denying Trial by Jury. The 10-day bench trial will begin April 2nd as previously scheduled. Signed by Judge David Nuffer on 3/13/2018. (blh) (Entered: 03/13/2018)
03/13/2018	337	Defendant's REPLY to Response to Motion re 319 Defendant's MOTION in Limine <i>Excluding Testimony Regarding Damages Relating to Disgorgement of Funds</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Plaintiff's Initial Rule 26 Disclosures)(Snuffer, Denver) (Entered: 03/13/2018)
03/14/2018	338	MEMORANDUM DECISION AND ORDER denying 319 Motion in Limine Excluding Testimony Regarding Damages Relating to Disgorgement of Funds. Parties to submit briefs on measurement and proof of a disgorgement amount on or before noon, 3/26/18. Signed by Judge David Nuffer on 3/14/18 (alt) (Entered: 03/14/2018)
03/15/2018	339	Defendant's MOTION for Leave to Appeal DEFENDANTS' MOTION TO CERTIFY AND AMEND THE ORDER DENYING DEFENDANTS MOTION TO REINSTATE TRIAL BY JURY and Memorandum in Support filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 03/15/2018)
03/15/2018	340	DOCKET TEXT ORDER denying 339 Motion for Leave to Appeal. There is no "substantial ground for difference of opinion." Further, due to the proximity of trial, "an immediate appeal " would clearly not "materially advance the ultimate termination of the litigation." It would delay this case even more. Also, defendants failed to articulate a reason why the Memorandum and Decision Order Denying Motion to Reinstate Jury Trial 322 and Memorandum Decision and Order Granting Defendants Rule 60(a) Request 336 qualifies for immediate appeal under the collateral order doctrine, specifically why this issue would be effectively unreviewable on appeal from a final judgment. An Order Denying Motion to Reinstate Jury Trial can be adequately reviewed on appeal from a final judgment. Signed by Judge David Nuffer on 3/15/2018. Docket text only. No attached document. (ms) (Entered: 03/15/2018)
03/16/2018	341	NOTICE of Appearance by Joshua D. Egan on behalf of International Automated Systems, Neldon Johnson, LTB1, RaPower-3 (Egan, Joshua) (Entered: 03/16/2018)
03/19/2018	342	Minute Entry for proceedings held before Judge David Nuffer: Final Pretrial Conference held on 3/19/2018, Counsel present for parties. Discussion heard on preparations for trial. Court ordered Terri Eppich, to be available for a 3 hour deposition, Lemar Roulhac to be available for a 4 hour deposition. Court overruled the defendants objections to plaintiffs 12 fact witnesses. Deposition designations due 3/26/2018. Government to file a motion re: sealing exhibits by 3/20/2018, response to due 3/23/2018 - limited to 3 pages. Mr. Snuffer to file motion re: depositions by noon, 3/21/2018, limited to 5 pages. No response necessary, unless ordered by the court. Defendant Freeborn, deceased, is dismissed as a party. Mr. Snuffer requested a site visit during trial. Court made no decision on the request.

		<p>Trial will begin each day at 8:30 a.m., with the first week to end around 4:00 p.m.</p> <p>Status Conference set for 3/29/2018 at 01:30 PM in Rm 3.100 before Judge David Nuffer. Court adjourned..</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Erin Hines, Christopher Moran, Attorney for Defendant: Denver Snuffer, Steven Paul, Daniel Garriott. Court Reporter: Becky Janke. (Time Start: 8:28, Time End: 10:05, Room 3.100.)(asb) (Entered: 03/19/2018)</p>
03/19/2018	343	MOTION Modify Trial Subpoena and Memorandum in Support filed by Movant Todd Anderson. (Attachments: # 1 Exhibit A - Declaration of Todd Anderson) Motions referred to Evelyn J. Furse.(Martin, Byron) (Entered: 03/19/2018)
03/19/2018	344	DOCKET TEXT ORDER taking under advisement 343 Motion Modify Trial Subpoena. The parties may submit a response to this Motion by Thursday, March 22, 2018. Signed by Judge David Nuffer on 03/19/18. Docket text only. No attached document. (ms) (Entered: 03/19/2018)
03/20/2018	345	MOTION to Unseal Document 331 Sealed Document, filed by USA, 246 Exhibits filed by USA, 245 Exhibits filed by USA and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Gallagher, Erin) (Entered: 03/20/2018)
03/20/2018		Set Hearings: 10-Day Bench Trial set for 4/2/2018, 4/3/2018, 4/4/2018, 4/5/2018, 4/19/2018, 4/20/2018, 4/23/2018, 4/24/2018, 4/25/2018, 4/26/2018, 5/9/2018, 6/4/2018 at 08:30 AM in Rm 3.100 before Judge David Nuffer. (time change from 8:00 a.m. to 8:30 a.m.)(asb) (Entered: 03/20/2018)
03/21/2018	346	Motions No Longer Referred: 345 MOTION to Unseal Document 331 Sealed Document, filed by USA, 246 Exhibits filed by USA, 245 Exhibits filed by USA and Memorandum in Support , 249 MOTION in Limine to Exclude "Expert" Testimony of Kurt Hawes and Richard Jameson, 343 MOTION Modify Trial Subpoena and Memorandum in Support , 290 MOTION for Attorney Fees re Motions to Compel, 250 MOTION in Limine to Exclude "Expert" Testimony of Neldon Johnson (asb) (Entered: 03/21/2018)
03/21/2018	347	Memorandum to Exclude Deposition Testimony in Lieu of Live Witnesses BRIEF re 342 Pretrial Conference - Final,,,,,, Set Hearings,,,,, filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 03/21/2018)
03/22/2018	348	MEMORANDUM in Opposition re 343 MOTION Modify Trial Subpoena and Memorandum in Support re: <i>Todd and Jessica Anderson Trial Subpoenas</i> filed by Plaintiff USA. (Hines, Erin) (Entered: 03/22/2018)
03/23/2018	349	Defendant's RESPONSE to Motion re 343 MOTION Modify Trial Subpoena and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 03/23/2018)
03/26/2018	350	DOCKET TEXT ORDER DENYING 343 Motion to Modify Trial Subpoena. The Parties are directed to notify the Andersons of a date certain for their testimony. The Andersons may have the option of not testifying on the same day. Docket Text Only. No attached document. Signed by Judge David Nuffer on 03/26/2018.(ms) (Entered: 03/26/2018)
03/26/2018	351	Disgorgement Issues BRIEF filed by Plaintiff USA. (Attachments: # 1 Exhibit Exhibit List, # 2 Exhibit 25, # 3 Exhibit 38, # 4 Exhibit 40, # 5 Exhibit 128, # 6 Exhibit 208, # 7 Exhibit 325, # 8 Exhibit 355, # 9 Exhibit 356, # 10 Exhibit 463, # 11 Exhibit 490, # 12 Exhibit 495, # 13 Exhibit 496, # 14 Exhibit 497, # 15 Exhibit 507, # 16 Exhibit 531, # 17 Exhibit 540, # 18 Exhibit 646, # 19 Exhibit 647, # 20 Exhibit 648, # 21 Exhibit 649, # 22 Exhibit 650, # 23 Exhibit 743, # 24 Exhibit 744, # 25 Exhibit 745, # 26 Exhibit 748, # 27 Exhibit 752)(Gallagher, Erin) (Entered: 03/26/2018)

03/26/2018	352	Defendant's MEMORANDUM re 338 Order on Motion in Limine,, Memorandum Decision, <i>MEMORANDUM REGARDING PROPER BASIS FOR DISGORGEMENT AND PARTIES RESPECTIVE BURDENS</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 03/26/2018)
03/26/2018	353	REPLY to Response to Motion re 343 MOTION Modify Trial Subpoena and Memorandum in Support filed by Movant Todd Anderson. (Martin, Byron) (Entered: 03/26/2018)
03/26/2018	354	DOCKET TEXT ORDER. Taking under advisement - 347 Defendants' Memorandum to Exclude the Use of Deposition Testimony in Lieu of Live Witnesses at Trial. The Government is Ordered to respond no later than Thursday, March 29, 2018, at noon. Specifically, the response should detail the basis under the rules for permitting the deposition designation of PacifiCorp in lieu of live testimony. No attached document. Docket text only. Signed by Judge David Nuffer on 03/26/2018. (ms) (Entered: 03/26/2018)
03/27/2018	355	DOCKET TEXT ORDER - Consistent with the strong presumption in favor of public access to judicial records 345 Motion to Unseal Exhibits is GRANTED. Signed by Judge David Nuffer on 03272018. Docket Text Only. No attached document. (ms) (Entered: 03/27/2018)
03/28/2018	356	<u>NOTICE VACATING STATUS CONFERENCE HEARING</u> set for Thursday, March 29, 2018 at 1:30 p.m. before Judge David Nuffer (asb) (Entered: 03/28/2018)
03/29/2018	357	use of PacifiCorp deposition in lieu of live testimony BRIEF re 354 Order,, filed by Plaintiff USA. (Attachments: # 1 Exhibit 193 Deposition subpoena to PacifiCorp, # 2 Exhibit 713A Deposition of PacifiCorp, # 3 Exhibit 794 Notice of PacifiCorp deposition, # 4 Exhibit 795 Declaration of PacifiCorp)(Gallagher, Erin) (Entered: 03/29/2018)
03/29/2018	358	DOCKET TEXT ORDER DENYING Defendants' request to exclude the use of deposition testimony in lieu of live witnesses at trial 347 . Pursuant to Rule 32(a)(3) the United States may use deposition testimony in lieu of live witnesses at trial for International Automated Systems, Inc.; Neldon Johnson; LTB1, LLC; RaPower-3, LLC; and R. Gregory Shepard. Based on the United States' Response 357 PacifiCorp deposition testimony is permitted by Rule 32(a)(4)(B). Defendants do not dispute the United States' other deposition designations are permitted under the Rule. Defendants' counsel's request that he is entitled to cross-examine any of the Defendants with leading questions is also DENIED. Fed. R. Evid. 611(c). Docket text only. No attachment. Signed by Judge David Nuffer on 03/29/2018. (ms) (Entered: 03/29/2018)
03/29/2018	359	DOCKET TEXT ORDER - Pursuant to the Memorandum Decision and Order 338 the Parties submitted briefs on the issue of disgorgement 351 352 . The Parties' briefing and supporting documentation have been carefully reviewed. This Order finds: -A party is not unjustly enriched if the gains he acquired flow from any legitimate business activity. -A claimant bears the burden of showing the disgorgement amount is a reasonable approximation of defendants unjust enrichment. -Unjust enrichment may be shown by gross receipts or increase in net assets. -A defendant is free to introduce evidence showing that unjust enrichment is something less than the amount put in evidence by plaintiff. Defendant has the burden of proving entitlement to a credit or deduction for business expenses, which may include refunds to customers. -However, defendant is not entitled to a credit for costs or expenses incurred in an

		<p>attempt to defraud the claimant.</p> <p>-Tax credits or depreciation deductions by defendants' customers might be a measure of disgorgement, but are not a required measure of disgorgement.</p> <p>-Individuals may be held personally liable for an entity's debt, if the individuals' unjust enrichment was directly derived from using the entity as a conduit for fraud.</p> <p>-Defendants may, when appropriate by transmission of funds from one to another, be jointly and severally liable for disgorgement.</p> <p>Docket text only. No attached document. Signed by Judge David Nuffer on 03/29/2018. (ms) (Entered: 03/29/2018)</p>
03/30/2018	360	ORDER Ruling on Objections to Pretrial Deposition Designations. Signed by Judge David Nuffer on 3/30/18 (alt) (Entered: 03/30/2018)
03/30/2018	361	<p>DOCKET TEXT ORDER - The following rulings on objections to pretrial deposition designations are hereby incorporated into 360 as follows:</p> <p>1) Deposition of PacifiCorp taken November 15, 2016 - 62:17 20, Objection, Not relevant, Fed. R. Evid. 401, 402 - Overruled</p> <p>2) Deposition of Peter Gregg taken November 16, 2016 -170:4 13, Objection, Leading, Fed. R. Evid. 611(c); Argumentative, Fed. R. Evid. 611(a); Not relevant, Fed. R. Evid. 401, 402 - Overruled</p> <p>3) Deposition of Robert Aulds taken March 14, 2017 - 168:10 169:18, Objection, Not relevant, Fed. R. Evid. 401, 402 - Overruled</p> <p>4) Deposition of John Howell taken August 23, 2017 - a. 126 133, Objection. Argumentative; lack of foundation; lack of personal knowledge; calls for speculation - Overruled</p> <p>Docket Text Only. No attachment. Signed by Judge David Nuffer on 03/30/2018. (ms) (Entered: 03/30/2018)</p>
03/30/2018	362	MOTION in Limine and Memorandum in Support to <i>Limit the Testimony of Lemar Roulhac at Trial</i> filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Garriott, Daniel) (Entered: 03/30/2018)
03/30/2018	363	DOCKET TEXT ORDER taking under advisement 362 Motion in Limine. A three page response may be submitted up through Monday, April 2, 2018 at 6:00 p.m. Docket text only. No attached document. Signed by Judge David Nuffer on 03/30/2018. (ms) (Entered: 03/30/2018)
04/01/2018	364	Defendant's MOTION in Limine and Memorandum in Support <i>MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 752 (JOANNA PEREZ)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Deposition of J. Perez)(Snuffer, Denver) (Entered: 04/01/2018)
04/01/2018	365	Defendant's MOTION in Limine and Memorandum in Support <i>DEFENDANTS' MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 734, 735, 736, 737, 738, 739, 740, 741, 742(A), 742(B), AND 750 (AMANDA REINKEN)</i> filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Deposition of A. Reinken)(Snuffer, Denver) (Entered: 04/01/2018)
04/02/2018	366	MEMORANDUM in Opposition re 362 MOTION in Limine and Memorandum in Support to <i>Limit the Testimony of Lemar Roulhac at Trial</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit 791, Lamar Roulhac CV, # 2 Exhibit Email chain between counsel ending in email dated March 27, 2018, # 3 Exhibit Email chain between counsel ending in email dated March 29, 2018, # 4 Exhibit United States' Witness List)(Hines, Erin) (Entered: 04/02/2018)

04/02/2018	367	PRETRIAL ORDER. Signed by Judge David Nuffer on 4/2/18 (art) (Entered: 04/02/2018)
04/02/2018	368	MEMORANDUM in Opposition re 364 Defendant's MOTION in Limine and Memorandum in Support <i>MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 752 (JOANNA PEREZ)</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit 752) (Gallagher, Erin) (Entered: 04/02/2018)
04/02/2018	369	Defendant's MEMORANDUM <i>DEFENDANTS' MEMORANDUM REGARDING PLAINTIFF'S BURDEN UNDER 26 USC §§ 6700 AND 7408</i> filed by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 04/02/2018)
04/02/2018	370	MEMORANDUM in Opposition re 365 Defendant's MOTION in Limine and Memorandum in Support <i>DEFENDANTS' MOTION IN LIMINE TO STRIKE PLAINTIFF'S SUMMARY EXHIBIT 734, 735, 736, 737, 738, 739, 740, 741, 742(A), 742(B), AND 750 (AMANDA REINKEN)</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit 734, Combined Gross Receipts, # 2 Exhibit 735, RaPower-3's Gross Receipts, # 3 Exhibit 736, R. Gregory Shepard's Gross Receipts, # 4 Exhibit 737, Neldon Johnson's Gross Receipts, # 5 Exhibit 738, IAS's Gross Receipts, # 6 Exhibit 739, SOLCO I, LLC's Gross Receipts, # 7 Exhibit 740, XSun Energy, LLC's Gross Receipts, # 8 Exhibit 741, Cobblestone Centre, LLC's Gross Receipts, # 9 Exhibit Summary of October 2017 Spreadsheet of Lens Transactions, # 10 Exhibit Summary of February 2018 Spreadsheet of Lens Transactions, # 11 Exhibit Defendants' Supplemented Production of Documents) (Hines, Erin) (Entered: 04/02/2018)
04/02/2018	372	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/2/2018.</p> <p>Counsel present for parties. Mr. Johnson, defendant, stated that he is pro se. Ms. Healy Gallagher responded that this is the first that they have heard of Mr. Johnson proceeding pro se. Discussion heard. Based on the record, court made findings on the record that Mr. Johnson is represented by Mr. Snuffer and his associates. Mr. Johnson maintains he would like to proceed pro se.</p> <p>Court has reviewed the pretrial order and will have it entered today. Court has reviewed a portion of the deposition designations in preparation of trial.</p> <p>Mr. Moran requested the admission of exhibits and provided a spreadsheet, with an approximation of 400 exhibits. Court instructed Mr. Moran to provide the lists to both the court and defendants counsel. Court will address after the lunch hour.</p> <p>Ms. Hines addressed the bank records exhibits and provided exhibit numbers. Court will review.</p> <p>Ms. Healy Gallagher addressed the outstanding motions in limine. Court has not yet had time to review the motions. Government would either file oppositions or argue, as the court directs. Court instructed responses by 6:00 p.m. today.</p> <p>Mr. Snuffer addressed the court on his concern re: preponderance of evidence to be clarified. Court instructed Mr. Snuffer to file a motion by 6:00 p.m. today. Response by 6:00 p.m. Tuesday.</p> <p>Mr. Snuffer then addressed the court on his concern with threshold questions. Court instructed Mr. Snuffer that this is untimely and should have been filed months prior to today.</p> <p>Government called Dr. Thomas Mancini. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 754. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 755. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 757. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibits 16 and 17. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 559.</p>

		<p>No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 437. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 562. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 12_4_00-4_23. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 12_4_38-5_15. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 460. No objection. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 16_12_24-12_41. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 509, Video 18_4_09-4_25. No objection. Court received. Mr. Snuffer moved for the admission of Exhibit 1500. Objection heard. Court instructed the exhibit needs more foundation. Mr. Snuffer moved to strike the testimony of Dr. Mancini. Court made findings on the record and denied the motion. Witness excused.</p> <p>Mr. Snuffer requested a clarification on how depositions and live testimony will work. Court informed counsel on how it intends to proceed with depositions and live testimony. Court printed out the annotated exhibits during Dr. Mancinis testimony. Counsel given an opportunity to review, then mark for identification. Ms. Healy Gallagher marked them with their exhibit numbers.</p> <p>Government exhibits with no objections discussed. Court received the identified exhibits. Ms. Healy Gallagher requested the exhibits identified for the record. Court instructed counsel that the spreadsheet will be identified as a court demonstrative exhibit #1. Ms. Healy Gallagher addressed the defendants amended witness list, specifically as to Mr. Peterson. Argument heard. Court took the matter under advisement. Mr. Snuffer to provide the court and government with proffer of testimony of Mr. Peterson, attaching exhibits he intends to use/rely by Wednesday, 4/4/2018 6:00 p.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Becky Janke, Kelly Hicken.(Time Start: 8:32, Time End: 4:10, Room 3.100.) (asb) Modified on 4/3/2018 to correct date of hearing (asb). (Entered: 04/03/2018)</p>
04/03/2018	371	<p>DOCKET TEXT ORDER denying 362 Defendants' Motion in Limine to Limit the Testimony of Lemar Roulhoc. Even if Mr. Roulhoc were an expert under Rule 702, traditional disclosure was not required because his services were necessitated by Defendants' failure to comply with discovery until a very late date as cited in 329 at p. 6. Furthermore, after the final pre-trial conference when his deposition was permitted, Plaintiff attempted to make Mr. Roulhoc available, but Defendants failed to act with reasonable diligence to make arrangements to depose him. His testimony of data extraction is not unfair to Defendants. Defendants have complete control over the evidence about which he will be testifying, reducing the possibility of any prejudice. Signed by Judge David Nuffer on 04/03/2018. Docket Text Only. No attached document. (ms) (Entered: 04/03/2018)</p>
04/03/2018	373	<p>DOCKET TEXT ORDER - Regarding Defendants' Amended Witness List, specifically as to Mr. Gary Peterson. Defendants are to provide the court and Plaintiff with proffer of testimony of Mr. Peterson, attaching exhibits he intends to use and list of everything he intends to rely on by Wednesday, 4/4/2018 6:00 p.m. Plaintiff may file a response by Friday, 4/6/2018 6:00 p.m. Docket text only. No attached document. Signed by Judge David Nuffer on 04/03/2018. (ms) (Entered: 04/03/2018)</p>
04/03/2018	374	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/3/2018.</p> <p>Counsel present for parties.</p> <p>Government called Cody Buck. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 371. No objection. Court received. Mr. Moran moved for the admission of Exhibit 533. No objection. Court received. Mr. Moran moved for the</p>

		<p>admission of Exhibit 92. Mr. Paul allowed to voir dire the witness. No objection. Court received. Witness excused.</p> <p>Government called Ken Overson. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 372. No objection. Court received.</p> <p>Court addressed the issue with objections to deposition exhibits. Government will provide a spreadsheet and depositions to the court.</p> <p>Discussion heard on deposition designations. Ms. Healy Gallagher provided Plaintiffs Exhibit 829, affidavit of non-appearance of Samuel Otto and moved for the admission. Mr. Paul requested additional time to review the exhibit before responding to the proposed admission.</p> <p>Mr. Overson returned to complete testimony. Witness excused.</p> <p>Court addressed the service issue. Ms. Healy Gallagher stated that the service issue was in their proposed findings and conclusions (pages 88-90).</p> <p>Government called Kenneth Birrell. Witness sworn and testified. Witness excused for the day and instructed to return 4/4/2018, at the time indicated by government counsel.</p> <p>Court will resume 4/4/2018 at 8:30 a.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:32, Time End: 4:03, Room 3.100.) (asb) (Entered: 04/03/2018)</p>
04/03/2018	375	Burden of Proof BRIEF re 369 Memorandum (NOT to motion), filed by Plaintiff USA. (Gallagher, Erin) (Entered: 04/03/2018)
04/04/2018	376	DOCKET TEXT ORDER denying Defendants' 364 Motion in Limine to Strike Plaintiff's Summary Exhibit 752 is DENIED for the following reasons: (1) The United States was not required to disclose the Excel spreadsheet Perez used to create her summary (Exhibit 752) because Defendants were given sufficient time to inspect the underlying documents, the tax returns (produced May 15, 2017, September 5, 2017, and September 15, 2017), and therefore, there is no reason to give the Defendants the benefit of Plaintiff's work product in preparing the spreadsheet. (2) These summaries qualify under Rule 1006. The admission of summaries under Rule 1006 is within the sound discretion of the court. (3) Exhibit 752 is not more prejudicial than probative and therefore does not violate Rule 403. Exhibit 752 adds substantial probative value, saves time and increases convenience by summarizing voluminous tax records. The Defendants may challenge Exhibit 752 on cross-examination. (4) Defendants failed to cite any case law to support their arguments of lack of relevance. (5) "Harm to the Treasury," depreciation expenses, and tax credits may be relevant to a proper measure of disgorgement. Signed by Judge David Nuffer on 04/04/2018. Docket text only. No attached document. (ms) (Entered: 04/04/2018)
04/04/2018	377	DOCKET TEXT ORDER - Defendants' 365 Motion in Limine to Strike Plaintiff's Summary Exhibits 734 - 741, 742(A), 742(B), and 750 ("Exhibits") is DENIED for the following reasons: (1) The United States was not required to disclose the Excel spreadsheet Reinken used to create her summaries in Exhibit 734 through 741 because Defendants were given sufficient time to inspect the underlying documents (the bank records) after they were produced March 30, 2017, and therefore, there is no reason to give the Defendants the benefit of Plaintiff's work product in preparing the spreadsheet. (2) The admission of these summaries which qualify under Rule 1006 is within the sound discretion of the court. (3) The Exhibits are far more probative than prejudicial and therefore do not violate Rule 403. The Exhibits add substantial probative value by summarizing voluminous bank records, saving time and increasing convenience. Defendants may challenge the Exhibits' on cross-examination. (4) Defendants failed to cite any case law to support their arguments. (5) Plaintiff indicates it no longer intends to offer Pl. Ex. 750. (6) The format conversion issue related to Exhibits 742A and 742B was

		<p>caused by Defendants' form of production of their database in a non-native format. (7) The lack of information about amounts paid for lenses in Exhibits 742A and 742B is due to the non-production of that data from Defendants. (8) Defendants have been free to prepare their own summaries from the bank records and from their database. Signed by Judge David Nuffer on 04/04/2018. Docket text only. No attached document. (ms) (Entered: 04/04/2018)</p>
04/04/2018	378	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/4/2018.</p> <p>Counsel present for parties. Government addressed the trade or other business, and placed in service. Government requested to brief the issue. Defendants response on the issues due Friday, 4/13/2018 1:00 p.m., not to exceed 20 pages. Government reply due 4/20/2018.</p> <p>authenticity issues of the affidavit of non-appearance of Samuel Otto. Mr. Snuffer accepted the authentication of the affidavit and exhibits. Exhibits authenticated, but not yet admitted for the record are 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, and 30.</p> <p>Mr. Snuffer addressed the issue as to their expert designation deadline of 9/15/2017, therefore, he would have been able to obtain a qualified expert. Government responded. Courts prior ruling still stands.</p> <p>Government called Todd Anderson. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 480. Objection heard. Court received. Witness excused.</p> <p>Government called Jessica Anderson. Witness sworn and testified. Ms. Healy Gallagher moved for the admission of Exhibit 574. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 575. No objection. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 23A. Objection heard. Court received. Court requested that Exhibit 582 be admitted. No objections. Court received. Court requested that the defendants mark and admit Ms. Andersons timekeeping records. Discussion heard. Exhibit marked 1519. Court received. Witness excused.</p> <p>Mr. Birrell returned to complete testimony. Mr. Paul used Plaintiff Exhibit 360. The exhibit has not been identified nor provided by either plaintiff nor defendant for trial purposes. Discussion heard on Exhibit 360. Mr. Paul moved for the admission of Exhibit 360. Objection heard. Court did not receive. Court instructed counsel to provide a copy of Exhibit 360 for court records. Witness excused.</p> <p>Court will resume 4/5/2018 at 8:30 a.m.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan, Attorney for Defendant: Erin Healy Gallagher, Christopher Moran, Erin Hines. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:31, Time End: 4:17, Room 3.100.) (asb) (Entered: 04/04/2018)</p>
04/04/2018	379	<p>Defendant's MEMORANDUM re 373 Order, <i>Gary Peterson's Proffer of Testimony and Documents Upon Which He Will Rely</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit IAS 10-K 2009, # 2 Exhibit IAS 10-K 2016, # 3 Exhibit IAS 10-K 2014, # 4 Exhibit IAS 10-K 2017, # 5 Exhibit IAS 10-K 2010)(Snuffer, Denver) (Entered: 04/04/2018)</p>
04/05/2018	380	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/5/2018.</p> <p>Counsel present for parties. Government moved for the admission of the exhibits noted in Samuel Ottos affidavit, which are identified as 30,168, 169, 170, 171, 172, 173, 175. No objections. Court received. Government has a number of exhibits that need redaction. Once they are completed, will submit to the court.</p> <p>Government called Lamar Roulhac. Witness sworn and testified. Ms. Healy Gallagher</p>

moved for the admission to Exhibit 831. No objection. Court received. Ms. Healy Gallagher moved for the admission to Exhibit 749. Objection heard. Court received. Witness excused.

Government called JoAnna Perez. Witness sworn and testified. Ms. Hines moved for the admission of Exhibits 123 and 752. No objection to Exhibit 123. Court received. Objection heard on Exhibit 752. Government responded. Court received Exhibit 752. Witness excused.

Court addressed Exhibit 829 and if the government wanted it received. At this time, government does not request its admission. Court requested that Exhibit 347 be emailed. Court instructed government to review Exhibits 349, 464 and 535, which were identified in depositions. Government will review to see if they need to move for admission. The screenshots of RaPower-3 website, Governments Exhibit 832. Mr. Paul provided the court with a complete 2-page screenshot. Government does not object to marking the 2-pages as Exhibit 832A. Court received.

Government called Amanda Reinken. Witness sworn and testified. Ms. Hines moved for the admission of Exhibits 714 thru 733. No objection. Court received. Ms. Hines moved for the admission of Exhibit 796. No objection. Court received. Ms. Hines moved for the admission of Exhibit 742A. No objection. Court received. Ms. Hines moved for the admission of Exhibit 742B. No objection. Court received. Ms. Hines moved for the admission of Exhibit 735. No objection. Court received. Ms. Hines moved for the admission of Exhibit 738. No objection. Court received. Ms. Hines moved for the admission of Exhibit 739. No objection. Court received. Ms. Hines moved for the admission of Exhibit 740. Objection heard. Court received. Ms. Hines moved for the admission of Exhibit 741. No objection. Court received. Court received. Ms. Hines moved for the admission of Exhibit 737. No objection. Court received. Court received. Ms. Hines moved for the admission of Exhibit 769. Objection heard. Court received. Witness excused.

Argument heard on damages.

Government called Robert Rowbotham. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 94. No objection. Court received. Mr. Moran moved for the admission of Exhibit 95. No objection. Court received. Mr. Moran moved for the admission of Exhibit 91. No objection. Court received. Mr. Moran moved for the admission of Exhibit 93. No objection. Court received.

Government addressed Deposition Exhibits 349, 465, 535. Government laid foundation through argument. Mr. Snuffer would like time to review the exhibits before responding. Court will rule on the exhibits after Mr. Snuffer informs the court of their response. Court will resume with trial on Thursday, 4/19/2018 at 8:30 a.m. Court adjourned.

Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:32, Time End: 4:19, Room 3.100.)(asb) (Entered: 04/05/2018)

04/06/2018	381	RESPONSE re 379 Memorandum (NOT to motion),, <i>Defendants' proffer of Gary Peterson</i> filed by USA. (Attachments: # 1 Exhibit 449, IAS Supplemental Responses to US First Interrogatories, # 2 Exhibit 450, RaPower-3 Supplemental Responses to US First Interrogatories, # 3 Exhibit 451, Neldon Johnson Supplemental Responses to US First Interrogatories, # 4 Exhibit 452, LTB1 Supplemental Responses to US First Interrogatories, # 5 Exhibit 789, Defendants' Supplemented Production of Documents, # 6 Exhibit 833, Defendants' Joint Initial Disclosures)(Gallagher, Erin) (Entered: 04/06/2018)
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04/10/2018	382	Docket Text Order - On March 30, 2018, Defendants amended their witness list to include Gary Peterson, the defendant companies' accountant. Pursuant to Rule 26(a), Defendants failed to timely disclose Gary Peterson. He is a witness whose necessity
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		<p>should have been known from the filing of the complaint, as his testimony bears on the issue of disgorgement. The court has broad discretion in determining whether a Rule 26(a) violation is justified or harmless.</p> <p>Mr. Peterson should not testify, in light of the four factors in <i>Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.</i>, 170 F.3d 985, 993 (10th Cir. 1999):</p> <p>(1) Offering a new witness the Friday preceding a Monday trial start date undoubtedly was a surprise to Plaintiffs and his testimony would prejudice Plaintiffs as they relied on Defendants previous disclosures and discovery responses to prepare for trial.</p> <p>(2) Plaintiff has already prepared for trial based on Defendants disclosures and discovery responses. Had Defendants timely disclosed Mr. Peterson, Plaintiffs would have had time to adequately prepare for trial taking into account his testimony. Defendants are unable to cure this prejudice.</p> <p>(3) This is a 10-day bench trial spread across a 4-week time frame. This case in the midst of trial. The remaining six days of trial resume on April 19, 2018. At such a late date, adding another witness would disrupt trial.</p> <p>(4) Defendants did not include Mr. Peterson in their initial disclosures, nor did they supplement their initial disclosures, nor did they otherwise make Mr. Peterson or his testimony known to Plaintiff during the discovery process or in writing prior to March 30, 2018.</p> <p>Defendants witness Gary Peterson will not be permitted to testify.</p> <p>Docket text only. No attached document. Signed by Judge David Nuffer on 04/10/2018. (ms) (Entered: 04/10/2018)</p>
04/11/2018	383	<p><u>UPDATED BENCH TRIAL SCHEDULE:</u></p> <p>Bench Trial set for Thursday, 4/19/2018 at 08:00 AM - 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Friday, 4/20/2018 at 08:30 AM -04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 4/23/2018 at 08:00 AM - 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 4/24/2018 at 08:00 AM - 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Wednesday, 4/25/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Thursday, 4/26/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 5/14/2018 at 08:00 AM - 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial tentatively set for Tuesday, 5/15/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. (5/15/2018 is for any additional argument necessary to complete the trial. Counsel are to pencil in the date) (asb) (Entered: 04/11/2018)</p>
04/13/2018	384	<p>MEMORANDUM re "placed in service" and "used in trade or business" filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Trial Testimony Excerpts of Mr. Robert Rowbotham) (Snuffer, Denver) Modified on 5/31/2018: corrected text (alt) (Entered: 04/13/2018)</p>

04/18/2018	385	<p>UPDATED BENCH TRIAL SCHEDULE.</p> <p>Bench Trial set for Thursday, 4/19/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Friday, 4/20/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 4/23/2018 at 08:00 AM - 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 4/24/2018 at 08:00 AM - 02:30 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Wednesday, 4/25/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Thursday, 4/26/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Monday, 5/14/2018 at 08:00 AM - 02:00 PM in Rm 3.100 before Judge David Nuffer.</p> <p>Bench Trial set for Tuesday, 5/15/2018 at 08:30 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. (5/15/2018 is for any additional argument necessary to complete the trial. Counsel are to pencil in the date) (asb) (Entered: 04/18/2018)</p>
04/19/2018	386	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/19/2018.</p> <p>Counsel present for parties. Court informed counsel that all depositions have now been read. Ms. Healy Gallagher provided additional exhibits, including redactions, to court and opposing counsel this morning.</p> <p>Ms. Healy Gallagher clarified for the record errors of minute entries: /4/2018 Exhibits 380 123 should be 132 and Exhibits 769 should be 796; 4/5/2018 Exhibit 669 moved into evidence and was admitted. ME does not note the admission. Court made the identified corrections.</p> <p>Government offered Exhibits 509 Video 12_4_00-4_23A, 509 Video 12_4_38-5_15A, 509 Video 12_4_38-5_15B, and 562A. Court received.</p> <p>The government list for deposition exhibits where no objections has been marked as Court Exhibit 2.</p> <p>Court will discuss Exhibits 349, 465, 535 at a break between testimony.</p> <p>Ms. Hines called Lynette Williams. Witness sworn and testified.</p> <p>Mr. Moran called Preston Olsen. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 134. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 135. No objection. Court received. Mr. Moran moved for the admission of Exhibit 141. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 147. No objection. Court received. Mr. Moran moved for the admission of Exhibit 158. Objection heard. Court received. Mr. Moran moved for the admission of Exhibit 142. Objection heard. Court received. Mr. Moran moved for the admission of Exhibits 127, 128, 129, and 130. Objections heard. Court received. Mr. Paul moved for the admission of Exhibit 1500. Objection heard. Court received. Witness excused.</p> <p>Court will resume with trial on Friday, 4/20/2018 at 8:30 a.m. Court adjourned.</p>

		Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:00, Time End: 3:35, Room 3.100.)(asb) (Entered: 04/19/2018)
04/20/2018	387	regarding "trade or business" and "placed in service" BRIEF re 384 Memorandum (NOT to motion), 378 Bench Trial - Held,,,,,,,,, filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 534, placed in service letters, # 2 Exhibit Pl. Ex. 546, placed in service letters, # 3 Exhibit Pl. Ex. 547, overview of the placed in service letter, # 4 Exhibit Excerpts of Trial Transcript)(Gallagher, Erin) (Entered: 04/20/2018)
04/20/2018	388	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/20/2018.</p> <p>Counsel present for parties. Ms. Healy Gallagher addressed the exhibits that are similar to Exhibit 158.</p> <p>Ms. Healy Gallagher moved for the admission of deposition designation form Exhibits 197, 334, 483, 504, 526, 581, 530, 544, 545, 550, 554, 589, and 590, which were not identified in Court Exhibit 2. Court will review the exhibits and rule on the admission at a later time.</p> <p>Ms. Healy Gallagher moved to admit Exhibits 413, 414, 415, 416, 668. Mr. Snuffer responded if incomplete, then they object. However, if complete, then no objections. Court gave defense counsel the weekend to review the exhibits and formally respond on Monday, April 23, 2018.</p> <p>Ms. Healy Gallagher moved for the admission of Exhibit 790. No objection. Court received.</p> <p>Ms. Healy Gallagher moved to admit the deposition designations Exhibits 448, 579, 581, 673, 681, 682, 683, 685, 687, 688, 689, 690, 693, 697, 713. Court received.</p> <p>Court ruling on the following exhibits:</p> <p>Exhibit 349 not received.</p> <p>Court received Exhibit 465 for limited purpose of showing the use of unsigned documentation, but otherwise not received.</p> <p>Court deferred ruling on Exhibit 535.</p> <p>Ms. Hines called Richard Jameson. Witness sworn and testified. Ms. Hines moved to admit Exhibit 865. Objections heard. Court received. Ms. Hines moved to admit Exhibit 637. No objection. Court received. Witness excused for the day, subject to recall by Mr. Snuffer.</p> <p>Mr. Moran called Matthew Shepard. Witness sworn and testified. Mr. Moran moved for the admission of Exhibit 438. No objection. Court received. Mr. Moran moved for the admission of Exhibit 424. No objection. Court received. Mr. Moran moved for the admission of Exhibit 426. No objection. Court received. Mr. Moran moved for the admission of Exhibit 417. No objection. Court received. Mr. Moran moved for the admission of Exhibit 427. No objection. Court received. Mr. Moran moved for the admission of Exhibit 428. No objection. Court received. Mr. Moran moved for the admission of Exhibit 441. No objection. Court received. Mr. Moran moved for the admission of Exhibit 547. No objection. Court received. Mr. Moran moved for the admission of Exhibit 351. No objection. Court received. Mr. Moran moved for the admission of Exhibit 679. No objection. Court received. Mr. Moran moved for the admission of Exhibit 680. No objection. Court received. Mr. Moran moved for the admission of Exhibit 433. No objection. Court received. Mr. Moran moved for the admission of Exhibit 417. No objection. Court received. Mr. Moran moved for the admission of Exhibit 434. No objection. Court received. Direct finished. Cross examination will begin Monday, April 23, 2018 at 8:00 a.m.</p> <p>Court will email the exhibit lists for government to amend the descriptions of exhibits, adding dates and descriptions. Counsel to make no other edits. Court instructed counsel to email PDFs of exhibits the court has not yet received.</p>

		<p>Discussion heard on witness schedule. Government to provide a list of exhibits to be used on upcoming witnesses to defendants counsel.</p> <p>Mr. Snuffer addressed the deposition designations and upcoming testimony. Ms. Healy Gallagher responded.</p> <p>Mr. Snuffer informed the court that he is not available on May 15, 2018 for any additional argument. Court inquired if counsels schedules allow for time the week of May 21, 2018 and May 29, 2018. Counsel responded. Counsel may have the week of May 29, 2018 available. Court instructed counsel to pencil in that week.</p> <p>Court recessed until Monday, 4/23/2018 at 8:00 a.m.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:33, Time End: 4:11, Room 3.100.)(asb) (Entered: 04/20/2018)</p>
04/23/2018	389	<p>DOCUMENTS LODGED consisting of 2018 April 20 Email from Erin Healy Gallagher re: Exhibits.</p> <p>Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 04/23/2018)</p>
04/23/2018	390	<p>DOCUMENTS LODGED consisting of 2018 April 22 Email from Erin Healy Gallagher re: Exhibits..</p> <p>Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 04/23/2018)</p>
04/23/2018	391	<p>Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/23/2018.</p> <p>Counsel present for parties. Ms. Healy Gallagher stated that the government is not available to week of May 29, 2018. Mr. Snuffer is not available May 15, 2018. Mr. Snuffer is available May 21 and 25, 2018. Ms. Healy Gallagher will check their schedules.</p> <p>Exhibits discussed. Mr. Snuffer had no objections to Exhibits 413, 414, 415, 416 and 668 (unredacted). Court received. The deposition designation list, Exhibits 448, 579, 581, 673, 681, 682, 683, 685, 687, 688, 689, 690, 693, 697, 713 were received on Friday, 4/20/2018 and received again today.</p> <p>Mr.Snuffer had no objections to Exhibits 197, 334, 483 (without handwriting), 504, 526, 530, 544, 550, 554. Court received. Mr. Snuffer objected to 545, 589, 590. Court reserved ruling on 545, 589. 590.</p> <p>Court received Exhibits 114A, 150A and 1500A, which are screenshots of video clips shown during trial testimony.</p> <p>Court received the exhibits on Court Exhibit #2. The exhibit list will be updated to include those exhibits as received. Court will review the 4/22/2018 email from Ms. Healy Gallagher, paragraphs 2-4, that notes the court received exhibit, however, were not noted on the exhibit list. Court will review the transcripts and minute entries and make appropriate changes.</p> <p>Mr. Matthew Shepard returned to complete testimony. Mr. Moran moved for the admission of Exhibit 903. No objection. Court received. Witness excused.</p> <p>Court confirmed the exhibits in the 4/22/2018 email from Ms. Healy Gallagher were received. Identified exhibits are now shown as received on the exhibit list.</p> <p>Mr. Moran called Gregory Shepard. Witness sworn and testified. Mr. Moran moved for the admission of Exhibits 435, 469, 553. No objection. Exhibit received. Mr. Paul moved for the admission of Exhibit 22. Objection heard. Court deferred ruling. Witness instructed to return Tuesday, 4/24/2018 at 8:00 a.m. to continue with testimony.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter:</p>

Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:03, Time End: 2:46, Room 3.100.)(asb) (Entered: 04/23/2018)

04/24/2018

BENCH TRIAL UPDATED SCHEDULE:

Bench Trial set for 4/24/2018 at 08:00 AM - 03:15 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 4/25/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 4/26/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 5/14/2018 at 08:00 AM - 02:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 6/25/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 6/26/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 6/27/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 6/28/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer.

Bench Trial set for 6/29/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 04/24/2018)

04/24/2018

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Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/24/2018.

Counsel present for parties. Ms. Healy Gallagher stated that they have penciled in June 25-29, 2018. Ms. Healy Gallagher addressed Exhibits 589 and 590. Court will review the associated documents to rule on Exhibits 589 and 590. Discussion heard on Exhibit 545. Objection heard. Court received 545.

Mr. Gregory Shepard returned to complete testimony. Mr. Paul moved for the admission of Exhibit 22. Court deferred ruling until the exhibit has been reviewed.

Exhibit 22 discussed. Court received.

Ms. Healy Gallagher addressed the outstanding motion in limine [249](#) .

Court received 589 and 590.

Ms. Healy Gallagher called Neldon Johnson. Witness sworn and testified. Mr. Snuffer had no objection to the use and admission of Exhibit 901. Court received. Ms. Healy Gallagher moved for the admission of Exhibits 780 and 781. Objection heard. Court received. Ms. Healy Gallagher moved for the admission of Exhibit 852. Objection heard. Court received.

Court will resume Wednesday, 4/25/2018 at 8:00 a.m.

Court adjourned.

Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:06, Time End: 3:06, Room 3.100.)(asb) (Entered: 04/24/2018)

04/25/2018	<p>395 Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 4/25/2018.</p> <p>Counsel present for parties. No preliminary matters to be discussed. Mr. Johnson returned to complete testimony. Government objects to the use of Exhibit 16A with Mr. Johnson for his lack of personal knowledge on technical details. Otherwise, no objection to use as to marketing. Court struck Mr. Johnsons testimony from 9:42:38 9:51:02. Court made findings on the record and will not allow Mr. Johnson to testify that he has engaged experts or procured the information outlined in these areas that incorporate expert reporting by reference. Mr. Johnson cannot leverage Exhibit 16A to be anything for than a marketing of white paper turned into expert testimony. Mr. Snuffer moved for the admission of Exhibit 513. Objection heard. Court received. Mr. Snuffer moved for the admission of Exhibit 536. No objection. Exhibit received. Ms. Healy Gallagher made several objections during testimony, which the court held.</p> <p>Court to resume Thursday, 4/26/2018 at 8:00 a.m. Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant: Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke, Laura Robinson.(Time Start: 8:14, Time End: 4:22, Room 3.100.)(asb) (Entered: 04/25/2018)</p>
04/26/2018	<p>396 Minute Order. Proceedings held before Judge David Nuffer: granting 249 Motion in Limine; granting 250 Motion in Limine; Bench Trial held on 4/26/2018.</p> <p>Counsel present for parties. Mr. Snuffer addressed the submitted Exhibits 1523, 1524, 1525 (unedited. Edited version is Exhibit 536) and 1526. Mr. Paul to email Exhibit 536. Ms. Healy Gallagher addressed the submitted Exhibits 904 and 905.</p> <p>Mr. Johnson returned to continue with testimony. Ms. Healy Gallagher made objections to testimony, which the court held for ruling.</p> <p>Court grants all reserved objections and motions to strike on the basis of foundation and Rule 702. Court made findings on the record regarding proposed defense experts. Mr. Johnsons testimony under Rule 702 is unacceptable. He claims qualifications and endorsements without any proof other than patents. Mr. Johnsons testimony will not help the trier of the fact to understand the evidence to determine a fact in issue, because he has shown that this testimony is not based on sufficient facts or data at least that are verifiable by the Court. Court grants all reserved objections and motions to strike on the basis of foundation and Rule 702. Mr. Johnson is nearly incapable of answering a question and when he does, he offers confusing nonresponsive disconnect answers. Court cannot accept that Mr. Johnson has qualifications necessary to testify as to anything that requires a basis under Rule 702 (see transcript for full findings and ruling).</p> <p>Court clarified for and made findings on the record ruling on Hawes, Jameson. Court granted motions in limine 249 to exclude expert testimony of Kurt Hawes and Richard Jameson and 250 to exclude expert testimony of Neldon Johnson.</p> <p>Mr. Johnson returned to complete testimony. Ms. Healy Gallagher made objections to testimony. Court granted the objections.</p> <p>Discussion heard on scheduling. Court would like to finish with Mr. Johnson in the governments case in chief. The CSOs report that they will be prepared to stay as last as necessary this evening.</p> <p>Ms. Healy Gallagher discussed Exhibits 904 and 905. Argument heard on the related government objections and motion to strike Mr. Johnsons testimony. Court did not strike the testimony from the record.</p> <p>Ms. Healy Gallagher moved for the admission of Exhibit 789. No objection. Court received.</p> <p>Mr. Johnson returned to continue with testimony. Ms. Healy Gallagher moved for the admission of Exhibit 907. Discussion heard. Court denied. Witness excused for the day. Plaintiff rests.</p> <p>Mr. Snuffer moved to dismiss the case under Rule 52(c). Argument heard. Ms. Healy</p>

		Gallagher to submit her PowerPoint presentation to the court in native format. Court adjourned. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken, Becky Janke.(Time Start: 8:04, Time End: 7:50, Room 3.100.) (asb) (Entered: 05/03/2018)
04/27/2018	394	Defendant's MOTION to Dismiss <i>Pursuant to Rule 52(c)</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Argument)(Garriott, Daniel) (Entered: 04/27/2018)
04/27/2018		<u>BENCH TRIAL UPDATED SCHEDULE:</u> Bench Trial set for 6/21/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/22/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/25/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/26/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/27/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/28/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/29/2018 at 08:00 AM - 04:00 PM in Rm 3.100 before Judge David Nuffer. (asb) (Entered: 04/27/2018)
04/27/2018	395	RESPONSE to Motion re 394 Defendant's MOTION to Dismiss <i>Pursuant to Rule 52(c) in Opposition</i> filed by Plaintiff USA. (Attachments: # 1 Argument Presentation)(Hines, Erin) (Entered: 04/27/2018)
05/29/2018	397	MOTION for Payment and Memorandum in Support <i>re costs of enforcing discovery orders</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 908, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) Modified on 6/7/2018: corrected motion relief (alt) (Entered: 05/29/2018)
05/30/2018	398	SEE 399 FOR CORRECT ORDER - DOCKET TEXT ORDER denying 394 Motion to Dismiss. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the motion is denied subject to renewal as a 50b motion. Signed by Judge David Nuffer on 05/30/2018. Docket Text Only. No attached document. (ms) Modified on 5/31/2018: struck out text per chambers entry of corrected DTO (alt) (Entered: 05/30/2018)
05/31/2018	399	AMENDED DOCKET TEXT ORDER deferring ruling on 394 . This DTO corrects and amends 398 DTO. The Motion to Dismiss 394 is deferred. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the court declines to

		render any judgment until the close of the evidence. Signed by Judge David Nuffer on 05/31/2018. Docket text only. No attached document.(ms) (Entered: 05/31/2018)
06/07/2018	400	ORDER granting 397 Motion for Payment of costs of enforcing discovery orders in the amount of \$16,195.26. Signed by Magistrate Judge Evelyn J. Furse on 6/7/18 (alt) (Entered: 06/07/2018)
06/12/2018	401	Defendant's MOTION for Judgment as a Matter of Law and Memorandum in Support <i>No Fraudulent Tax Scheme</i> filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 06/12/2018)
06/13/2018	402	DOCKET TEXT ORDER deferring ruling on 401 Motion for Judgment as a Matter of Law. After review of the documentation submitted by counsel and notes from the trial as well as portions of the transcripts the court declines to render any judgment until the close of the evidence. Signed by Judge David Nuffer on 06/13/2018. Docket text only. No attached document. (ms) (Entered: 06/13/2018)
06/15/2018	403	MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 06/15/2018)
06/15/2018	404	RESPONSE to Motion re 403 MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 912, Email from Mr. Snuffer re. Witness Order)(Moran, Christopher) (Entered: 06/15/2018)
06/15/2018	405	REPLY to Response to Motion re 403 MOTION to Continue trial and Memorandum in Support <i>on the Basis of Litigant's Health</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 06/15/2018)
06/18/2018	406	EXHIBITS filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard re 405 Reply Memorandum/Reply to Response to Motion,. (Snuffer, Denver) (Entered: 06/18/2018)
06/18/2018	407	MEMORANDUM DECISION AND ORDER denying 403 Motion to Continue Jury Trial. Signed by Judge David Nuffer on 6/18/18 (alt) (Entered: 06/18/2018)
06/20/2018	408	NOTICE OF FILING of Defendants' Anticipated Trial Schedule filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Paul, Steven) (Entered: 06/20/2018)
06/20/2018		<u>UPDATE BENCH TRIAL COURTROOM LOCATIONS:</u> Bench Trial set for 6/21/2018 thru 6/27/2018 at 08:00 AM in Rm 3.100 before Judge David Nuffer. Bench Trial set for 6/28/2018 thru 6/29/2018 at 08:00 AM in Rm 3.400 before Judge David Nuffer.(asb) (Entered: 06/20/2018)
06/21/2018	409	Minute Entry for proceedings held before Judge David Nuffer: Bench Trial held on 6/21/2018. Counsel present for parties. Mr. Snuffer addressed the court stating that the defense rests. After a brief discussion, counsel for the parties will return tomorrow, June 22 at 9:00 a.m. to begin closing arguments. Each side will have 1.5 hours for closings, with the Plaintiff having.5 for rebuttal. Defendant states exhibit 360 was admitted by the court. The court does not show exhibit 360 admitted, but will confirm later. Court is

		adjourned and will resume tomorrow, June 22 at 9:00 a.m. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Laura Robinson.(mjm) (Entered: 06/21/2018)
06/21/2018	410	<u>UPDATED TRIAL SCHEDULE:</u> Bench Trial set for Friday, 6/22/2018 at 09:00 AM in Rm 3.100 before Judge David Nuffer. All other trial dates are vacated pursuant to the trial minute entry dated 6/21/2018. (asb) (Entered: 06/21/2018)
06/22/2018	411	NOTICE OF FILING of Defendants' Closing Argument filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Technical Explanation of the Revenue Provisions of the Reconciliation Act of 2010, as Amended, in Combination with the Patient Protection and Affordable Care Act)(Snuffer, Denver) (Entered: 06/22/2018)
06/22/2018	412	NOTICE OF FILING filed by Plaintiff USA. (Hines, Erin) (Entered: 06/22/2018)
06/22/2018	413	INTERIM ORDER for Partial Injunctive Relief After Trial. Defendants' Declaration of Compliance due on or before 6/29/18. Signed by Judge David Nuffer on 6/22/18 (alt) (Entered: 06/22/2018)
06/22/2018	414	Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Warranty Deed, # 2 Exhibit Deed of Trust, # 3 Exhibit Warranty Deed, # 4 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Hines, Erin) (Entered: 06/22/2018)
06/22/2018	415	Minute Entry for proceedings held before Judge David Nuffer: Bench Trial completed on 6/22/2018. Counsel present for parties. Closing arguments heard from both parties. Parties excused for lunch. Upon return, the court hears rebuttal from Plaintiff. The court issues the following ruling: docket entry 394 Defendant's MOTION to Dismiss Pursuant to Rule 52(c) filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard is DENIED. Docket entry 401 Defendant's MOTION for Judgment as a Matter of Law and Memorandum in Support No Fraudulent Tax Scheme filed by Defendants Roger Freeborn, International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard is DENIED. The court made interim findings in favor of Plaintiff. Plaintiff will submit proposed findings and facts of law by 7/13/2018. Defendant will submit objections by 7/27/2018. Attorney for Plaintiff: Erin Healy Gallagher, Christopher Moran, Erin Hines, Attorney for Defendant Denver Snuffer, Daniel Garriott, Steven Paul, Joshua Egan. Court Reporter: Kelly Hicken.(mjm) (Entered: 06/22/2018)
06/22/2018	416	Bench Trial Witness and Exhibit Lists. (asb) (Entered: 06/25/2018)
06/27/2018	417	DOCKET TEXT ORDER taking under advisement 414 Motion to Appoint Receiver. Expedited response is necessary. Defendants may file a response to 414 Motion to Appoint Receiver on Monday, July 2, 2018, by 9:00 a.m. If the court determines a reply is necessary, one will be requested. Signed by Judge David Nuffer on 06/27/2018. Docket text only. No attached document. (ms) (Entered: 06/27/2018)
06/27/2018	418	Motions No Longer Referred: 414 Second MOTION to Appoint Receiver and Freeze Defendants' Assets. (nas) (Entered: 06/27/2018)
06/27/2018	419	PRESERVATION ORDER. Signed by Judge David Nuffer on 6/27/18 (alt) (Entered: 06/27/2018)
06/29/2018	420	NOTICE OF FILING of Defendants' Report and Certification filed by Defendants

		International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 06/29/2018)
06/29/2018	421	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Bench Trial held on June 22, 2018, before Judge David Nuffer. Court Reporter/Transcriber Kelly Brown Hicken CSR, RPR, RMR, Telephone number 801-524-7238.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/20/2018. Redacted Transcript Deadline set for 7/30/2018. Release of Transcript Restriction set for 9/27/2018 (alt) Modified by removing restricted text on 10/1/2018 (rgj). (Entered: 06/29/2018)</p>
07/02/2018	423	Defendant's RESPONSE to Motion re 414 Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 07/02/2018)
07/02/2018	424	NOTICE of Filing of Bankruptcy of RaPower-3, by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard (Snuffer, Denver) Modified on 7/9/2018: added name of party who filed for bkrcy (alt) (Entered: 07/02/2018)
07/02/2018	425	MOTION for Extension of Time to comply with Doc. 419 and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 07/02/2018)
07/02/2018	426	NOTICE FROM THE COURT - Defendant RaPower-3 LLC, filed for bankruptcy in U.S. Bankruptcy Court for the District of Utah, Case No. 18-24865. (ms) (Entered: 07/02/2018)
07/02/2018	427	DOCKET TEXT ORDER granting in part and denying in part 425 Motion for Extension of Time. Defendants shall have until July 13, 2018 to comply with item c. of the 419 Preservation Order. Item c. requires Defendants to provide a descriptive list of the data, identify persons responsible for maintenance of the data, including all persons with access to the data. No extensions on any other part of the 419 Preservation Order are permitted. Signed by Judge David Nuffer on 07/02/2018. Docket text only. No attached document. (ms) (Entered: 07/02/2018)
07/02/2018		Case Stayed per 424 Notice of Filing of Bankruptcy (rks) (Entered: 07/05/2018)
07/10/2018	428	DOCKET TEXT ORDER denying 394 Motion to Dismiss ; denying 401 Motion for Judgment as a Matter of Law. Judge Nuffer denied both of these motions from the bench on 6/22/2015. See minute entry 415 . Signed by Judge David Nuffer on 07/10/2018. Docket text only. No attached document. (ms) (Entered: 07/10/2018)
07/13/2018	429	MOTION to Vacate Stay and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Excerpts from June 22, 2018 trial transcript, # 2 Exhibit 917, RaPower-3, LLC's List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not

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		Insiders, # <u>1</u> Text of Proposed Order)(Gallagher, Erin) Modified on 7/13/2018: corrected entry text (alt) (Entered: 07/13/2018)
07/13/2018	430	ORDER taking under advisement and for expedited briefing re 429 MOTION to Vacate Stay. Signed by Judge David Nuffer on 7/13/18 (alt) (Entered: 07/13/2018)
07/13/2018	431	MOTION for Extension of Time submission of draft opinion and order and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 07/13/2018)
07/13/2018	432	DOCKET TEXT ORDER granting 431 Motion for Extension of Time. The time for Plaintiff to submit a draft order and opinion as order on June 22, 2018, see minute entry 415 , will be extended to 14 days after an order is issued on 429 Motion to Vacate. Defendants will then have 14 days to submit their response to the draft. Docket text only. No attached document. Signed by Judge David Nuffer on 07/13/2018. (ms) (Entered: 07/13/2018)
07/18/2018	433	NOTICE of Appearance by Jeffrey D. Tuttle on behalf of RaPower-3 (Tuttle, Jeffrey) (Entered: 07/18/2018)
07/18/2018	434	MEMORANDUM in Opposition re 429 MOTION to Vacate Stay <i>and Reservation of Rights</i> filed by Defendant RaPower-3. (Tuttle, Jeffrey) (Entered: 07/18/2018)
07/18/2018	435	RESPONSE to Motion re 429 MOTION to Vacate Stay filed by Defendants International Automated Systems, Neldon Johnson, LTBI, R. Gregory Shepard. (Paul, Steven) (Entered: 07/18/2018)
07/19/2018	436	NOTICE of Appearance by David E. Leta on behalf of RaPower-3 (Leta, David) (Entered: 07/19/2018)
07/20/2018	437	REPLY to Response to Motion re 429 MOTION to Vacate Stay filed by Plaintiff USA. (Gallagher, Erin) (Entered: 07/20/2018)
08/17/2018	438	MOTION for Hearing re 429 MOTION to Vacate Stay, 414 Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> re status conference and Memorandum in Support <i>status conference requested, or in the alternative, request to submit for decision</i> filed by Plaintiff USA. Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 08/17/2018)
08/17/2018	439	RESPONSE to Motion re 438 MOTION for Hearing re 429 MOTION to Vacate Stay, 414 Second MOTION to Appoint Receiver and Memorandum in Support <i>and Freeze Defendants' Assets</i> re status conference and Memorandum in Support <i>status conference requested, or filed by Defendants International Automated Systems, Neldon Johnson, LTBI, R. Gregory Shepard. (Garriott, Daniel)</i> (Entered: 08/17/2018)
08/20/2018	440	Motions No Longer Referred: 438 MOTION for Hearing re 429 MOTION to Vacate Stay, 414 Second MOTION to Appoint Receiver and Memorandum in Support.(nas) (Entered: 08/20/2018)
08/21/2018	441	DOCKET TEXT ORDER granting 429 Motion to Vacate Stay for the reasons stated in 429 and 437. Signed by Judge David Nuffer on 8/21/2018. No attached document. (asb) (Entered: 08/21/2018)
08/21/2018	442	DOCUMENTS LODGED consisting of 8/17/2018 3:32 p.m. email from Dan Garriott with redlined proposed stipulated order to freeze assets and appoint receiver. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # <u>1</u> Text of Proposed Stipulated Order) (asb) (Entered: 08/21/2018)

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08/22/2018	443	ORDER finding as moot 436 Motion for Hearing. Signed by Judge David Nuffer on 8/22/18 (alt) (Entered: 08/22/2018)
08/22/2018	444	MEMORANDUM DECISION AND ORDER granting 414 Motion to Appoint Receiver. The assets of Defendants RaPower-3, Neldon Johnson, International Automated Systems, and R. Gregory Shepard are frozen until further order of this Court. The USA shall provide within 30 days, the names of three possible receivers to the court. Signed by Judge David Nuffer on 8/22/18 (alt) (Entered: 08/22/2018)
08/27/2018	445	NOTICE OF INTERLOCUTORY APPEAL as to 444 Order on Motion to Appoint Receiver,, Memorandum Decision, filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number 1088-3089136. (Snuffer, Denver) (Entered: 08/27/2018)
08/27/2018	446	Transmission of Preliminary Record to USCA re 445 Notice of Appeal - Interlocutory (Attachments: # 1 Appendix) (alt) (Entered: 08/27/2018)
08/28/2018	447	USCA Case Number Case Appealed to Tenth Case Number 18-4119 for 445 Notice of Appeal - Interlocutory, filed by RaPower-3, R. Gregory Shepard, International Automated Systems, Neldon Johnson, LTB1. (jmr) (Entered: 08/28/2018)
09/06/2018	448	Defendant's MOTION to Stay re 444 Order on Motion to Appoint Receiver,, Memorandum Decision, and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 09/06/2018)
09/07/2018	449	Motions No Longer Referred: 448 Defendant's MOTION to Stay re 444 Order on Motion to Appoint Receiver, Memorandum Decision, and Memorandum in Support (nas) (Entered: 09/07/2018)
09/10/2018	450	DOCUMENT LODGED consisting of correspondence from Key Bank to atty Erin Hines. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 09/11/2018)
09/14/2018	451	MOTION to Amend/Correct 428 Docket Text Order based on 6/22/18 Oral Ruling and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Confirmation of Electrical Power Production, # 2 Exhibit Sterling Engine Power Production Data, # 3 Exhibit Resume of John Kraczek)(Snuffer, Denver) Modified on 9/17/2018: corrected motion relief/case has not been closed (alt) (Entered: 09/14/2018)
09/14/2018	452	Defendant's OBJECTIONS to 432 Order on Motion for Extension of Time, <i>RE: Response to Plaintiff's Draft Order and Opinion</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 09/14/2018)
09/17/2018		Modification of Docket re 451 MOTION to Amend/Correct 428 Docket Text Order based on 6/22/18 Oral Ruling. Error: Wrong motion relief, "Reopen Case" was selected, however case has never been closed. Correction: Motion relief corrected to "Amend/Correct" and linked to order in question. (alt) (Entered: 09/17/2018)
09/17/2018	453	Please be advised the Record is complete for purposes of appeal for USCA case number 18-04119 re 445 Notice of Appeal - Interlocutory (alt) (Entered: 09/17/2018)
09/17/2018	454	DOCUMENT LODGED consisting of correspondence from JPMorgan Chase. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 09/17/2018)

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09/20/2018	455	MEMORANDUM in Opposition re 448 Defendant's MOTION to Stay re 444 Order on Motion to Appoint Receiver,, Memorandum Decision, and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 329, July 2013 email string re Ra3 IRS Audits)(Gallagher, Erin) (Entered: 09/20/2018)
09/21/2018	456	NOTICE OF FILING of United States' Proposed Receivers and Proposed Receivership Order re 444 Order on Motion to Appoint Receiver,, Memorandum Decision, filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 920, Wayne Klein Resume, # 2 Exhibit Pl. Ex. 921, Gil Miller Resume, # 3 Exhibit Pl. Ex. 922, Peggy Hunt Resume, # 4 Text of Proposed Order)(Gallagher, Erin) (Entered: 09/21/2018)
09/25/2018	457	REQUEST to Submit for Decision re 290 MOTION for Attorney Fees re <i>Motions to Compel</i> filed by Plaintiff USA. (Moran, Christopher) (Entered: 09/25/2018)
09/27/2018	458	REPLY to Response to Motion re 448 Defendant's MOTION to Stay re 444 Order on Motion to Appoint Receiver,, Memorandum Decision, and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Expert Resumes)(Paul, Steven) (Entered: 09/27/2018)
09/27/2018	459	MOTION for Settlement and Memorandum in Support re <i>State Cases</i> filed by Defendants International Automated Systems, Neldon Johnson, RaPower-3. (Attachments: # 1 Exhibit Proposed Settlement Agreement, # 2 Exhibit Proposed Order, # 3 Exhibit Email from Plaintiff's Counsel)(Garriott, Daniel) Modified on 10/4/2018: corrected text (alt) (Entered: 09/27/2018)
09/28/2018	460	Plaintiff's MEMORANDUM in Opposition re 451 MOTION to Amend/Correct 428 Docket Text Order based on 6/22/18 Oral Ruling filed by Plaintiff USA. (Attachments: # 1 Affidavit Declaration of Dr. Thomas Mancini, # 2 Exhibit Pl. Ex. 932, website capture of www.rapower3.com)(Hines, Erin) (Entered: 09/28/2018)
09/28/2018	461	OBJECTIONS to 444 Order on Motion to Appoint Receiver,, Memorandum Decision, <i>Plaintiff's Proposed Receivership Order</i> filed by International Automated Systems, Neldon Johnson, LTb1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 09/28/2018)
09/28/2018	462	MOTION lift asset freeze order as to certain assets and Memorandum in Support filed by Defendant R. Gregory Shepard. (Attachments: # 1 Affidavit Declaration of Greg Shepard) Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 09/28/2018)
09/29/2018	463	DOCUMENTS LODGED consisting of Email from Plaintiff's counsel dated August 31, 2018, enclosing draft findings and conclusions. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # 1 Text of Proposed Order Plaintiff's clean draft Findings and Conclusions, August 31, 2018, # 2 Text of Proposed Order Plaintiff's redline draft Findings and Conclusions, August 31, 2018) (DN) (Entered: 09/29/2018)
10/01/2018	464	Motions No Longer Referred: 462 MOTION lift asset freeze order as to certain assets and Memorandum in Support (nas) (Entered: 10/01/2018)
10/03/2018	465	OBJECTIONS to 458 Reply Memorandum/Reply to Response to Motion, to " <i>new evidence</i> " submitted in Reply filed by USA. (Gallagher, Erin) (Entered: 10/03/2018)
10/03/2018	466	MEMORANDUM in Opposition re 462 MOTION lift asset freeze order as to certain assets and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 924, April 12, 2017 "Full Reconveyance")(Gallagher, Erin) (Entered: 10/03/2018)

10/04/2018	467	FINDINGS OF FACT AND CONCLUSIONS OF LAW and PERMANENT INJUNCTION. Signed by Judge David Nuffer on 10/4/18 (alt) (Entered: 10/04/2018)
10/04/2018	468	JUDGMENT entered in favor of USA against International Automated Systems, RaPower-3, Neldon Johnson, R. Gregory Shepard, jointly and severally, in the amount of \$50,025,480, with post-judgment interest at the legal rate - CASE CLOSED. The Order and Injunction and Compliance Verifications set forth in the Findings of Fact and Conclusions of Law shall remain in effect and survive the closure of this action. Signed by Judge David Nuffer on 10/4/18 (alt) (Entered: 10/04/2018)
10/08/2018	469	NOTICE of Withdrawal of Motion [Doc. 462] by R. Gregory Shepard re 462 MOTION lift asset freeze order as to certain assets and Memorandum in Support (Paul, Steven) (Entered: 10/08/2018)
10/09/2018	470	REPLY to Response to Motion re 451 MOTION to Amend/Correct 428 Docket Text Order based on 6/22/18 Oral Ruling filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Engineers' Report)(Paul, Steven) (Entered: 10/09/2018)
10/09/2018	471	AFFIDAVIT/DECLARATION of John Kraczek in Support re 451 MOTION to Amend/Correct 428 Docket Text Order based on 6/22/18 Oral Ruling filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit John Kraczek Resume, # 2 Exhibit Engineers Report) (Paul, Steven) (Entered: 10/09/2018)
10/10/2018	472	NOTICE OF APPEAL filed by Roger Freeborn, International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number 1088-3120754. (Paul, Steven) (Entered: 10/10/2018)
10/10/2018	473	Transmission of Preliminary Record to USCA re 472 Notice of Appeal (Attachments: # 1 Appendix) (alt) (Entered: 10/10/2018)
10/16/2018	474	Defendant's MOTION to Amend/Correct 468 Judgment, and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 10/16/2018)
10/17/2018	475	USCA Case Number Case Appealed to Tenth Case Number 18-4150 for 472 Notice of Appeal filed by Roger Freeborn, RaPower-3, R. Gregory Shepard, International Automated Systems, Neldon Johnson, LTB1. (jmr) (Entered: 10/17/2018)
10/17/2018	476	Motions No Longer Referred: 474 Defendant's MOTION to Amend/Correct 468 Judgment, and Memorandum in Support (nas) (Entered: 10/17/2018)
10/18/2018	477	BILL OF COSTS filed by USA. (Attachments: # 1 Memorandum of Costs, # 2 Verification of Costs: Declaration of Erin Healy Gallagher, # 3 Pl. Ex. 925)(Gallagher, Erin) (Entered: 10/18/2018)
10/23/2018	478	DOCKET TEXT ORDER re 452 Objection re: 467 Findings of Fact and Conclusions of Law ("Objection"), filed by Defendants. Defendants' 452 Objection is MOOT and therefore OVERRULED. Signed by Judge David Nuffer on 10/23/18. (elm) (Entered: 10/23/2018)
10/23/2018	479	ORDER denying 448 Motion to Stay enforcement of 444 Memorandum Decision. Signed by Judge David Nuffer on 10/23/18 (alt) (Entered: 10/23/2018)

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10/23/2018	480	ORDER granting 290 Motion for Attorney Fees in the total amount of \$8,899.98. Signed by Judge David Nuffer on 10/23/18 (alt) Modified on 12/28/2018: this order no longer applies to Heideman & Associates per 551 Order (alt) (Entered: 10/23/2018)
10/23/2018	481	CLERK'S JUDGMENT FOR ATTORNEYS' FEES AND COSTS in favor of USA and against Heideman & Associates, International Automated Systems, LTB1, RaPower-3, Neldon Johnson, jointly and severally, in the total amount of \$8,899.98. Signed by ALT, Deputy Clerk (alt) Modified on 12/28/2018: this jgm no longer applies to Heideman & Associates per 551 Order (alt) (Entered: 10/23/2018)
10/24/2018	482	ORDER granting 459 Motion to Permit Settlement of State Cases. Signed by Judge David Nuffer on 10/24/18 (alt) (Entered: 10/24/2018)
10/25/2018	483	MOTION for Order to Show Cause and Memorandum in Support <i>why defendant R. Gregory Shepard should not be held in civil contempt</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 927- Affidavit of Certified Records, regarding attached Confirmation Notice of Shepard's Surrender of Annuity Contract, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Moran, Christopher) (Entered: 10/25/2018)
10/25/2018	484	TRANSCRIPT REQUEST FORM filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard re 472 Notice of Appeal (Paul, Steven) (Entered: 10/25/2018)
10/25/2018	485	NOTICE OF HEARING ON MOTION re: 483 MOTION for Order to Show Cause and Memorandum in Support <i>why defendant R. Gregory Shepard should not be held in civil contempt</i> : Motion Hearing set for Thursday, 11/8/2018 at 01:00 PM in Rm 7.300 before Judge David Nuffer. (asb) (Entered: 10/25/2018)
10/25/2018	486	Motions No Longer Referred: 483 MOTION for Order to Show Cause and Memorandum in Support <i>why defendant R. Gregory Shepard should not be held in civil contempt</i> (elm) (Entered: 10/25/2018)
10/25/2018	487	DOCKET TEXT ORDER taking under advisement 483 United States' Motion for Order to Show Cause Why R. Gregory Shepard Should Not Be Held in Civil Contempt of Court (the "Motion"). IT IS HEREBY ORDERED that any response to the 483 Motion shall be filed by no later than Friday, November 2, 2018. Signed by Judge David Nuffer on 10/25/18. No attached document. (elm) (Entered: 10/25/2018)
10/26/2018	488	RESPONSE to Motion re 474 Defendant's MOTION to Amend/Correct 468 Judgment, and Memorandum in Support filed by Plaintiff USA. (Gallagher, Erin) (Entered: 10/26/2018)
10/31/2018	489	Please be advised the Record is complete for purposes of appeal for USCA case number 18-4150 re 472 Notice of Appeal (alt) (Entered: 10/31/2018)
10/31/2018	490	RECEIVERSHIP ORDER overruling objections and appointing Wayne Klein as receiver for the estate of the Receivership Defendants and any subsidiaries or affiliated entities, with standing to prosecute claims under the Uniform Voidable Transactions Act. The Asset Freeze is continued. Signed by Judge David Nuffer on 10/31/18 (alt) (Entered: 10/31/2018)
11/01/2018	491	CORRECTED RECEIVERSHIP ORDER (corrects formatting problems in the 490

		Receivership Order). Signed by Judge David Nuffer on 11/1/18 (alt) (Entered: 11/01/2018)
11/01/2018	492	DECLARATION of Neldon Johnson <i>re Compliance Verifications</i> filed by Neldon Johnson. (Paul, Steven) (Entered: 11/01/2018)
11/01/2018	493	DECLARATION of R. Gregory Shepard <i>re Compliance Verifications</i> filed by R. Gregory Shepard. (Paul, Steven) (Entered: 11/01/2018)
11/02/2018	494	RESPONSE to Motion re 483 MOTION for Order to Show Cause and Memorandum in Support <i>why defendant R. Gregory Shepard should not be held in civil contempt</i> filed by Defendant R. Gregory Shepard. (Attachments: # 1 Affidavit Declaration of Greg Shepard)(Paul, Steven) (Entered: 11/02/2018)
11/02/2018	495	Neldon Johnson's Pro Se MOTION to Recuse Honorable Judge David Nuffer filed by Defendant Neldon Johnson. Motions referred to Evelyn J. Furse.(mas) (Entered: 11/02/2018)
11/02/2018	496	MOTION to Appoint Counsel <i>Accounting Firm Lone Peak Valuation Group</i> filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. Attorney Jonathan O. Hafen added to party Wayne Klein(pty:rc)(Hafen, Jonathan) (Entered: 11/02/2018)
11/02/2018	497	MOTION to Appoint Counsel <i>Parr Brown Gee & Loveless</i> filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Hafen, Jonathan) (Entered: 11/02/2018)
11/05/2018	498	Motions No Longer Referred: 495 MOTION to Recuse, 496 MOTION to Appoint Counsel <i>Accounting Firm Lone Peak Valuation Group</i> , 497 MOTION to Appoint Counsel <i>Parr Brown Gee & Loveless</i> (nas) (Entered: 11/05/2018)
11/05/2018	499	ORDER denying 495 Motion for Recusal. Signed by Judge David Nuffer on 11/05/2018. (elm) (Entered: 11/05/2018)
11/06/2018	500	ORDER granting 496 Motion to Appoint Accounting Firm Lone Peak Valuation Group; granting 497 Motion to Appoint Counsel Parr Brown Gee & Loveless P.C. Signed by Judge David Nuffer on 11/6/18 (alt) (Entered: 11/06/2018)
11/08/2018	501	Costs Taxed in amount of \$ 49140.53 for Plaintiff against Defendants; signed by AWM, Chief Deputy Clerk on 11/7/2018 (alt) (Entered: 11/08/2018)
11/08/2018	502	Minute Order. Proceedings held before Judge David Nuffer: Counsel present for parties. Discussion heard on the government's motion finding Mr. Shepard in civil contempt, and procedures/remedies on the motion. Government requested a return of all money withdrawn within 7 days. Mr. Paul responded that all money has been spent. Mr. Klein requested a full accounting of the monies spent, including bank and AXA records. Court made findings on the record that the government has satisfied the burden of proof of civil comtempt against Mr. Shepard. Court found Mr. Shepard guilty of civil contempt. Court ordered Mr. Shepard to pay \$27,126.05 to the receiver on or before 4:00 p.m. 11/30/2018. Mr. Shepard to provide a full accounting along with all exhibits by noon, 11/13/2018. Mr. Shepard to also provide information of all persons benefiting from the funds (names, addresses, phone numbers, SSN, email), along with a list of those living with Mr. Shepard. Court ordered that the U.S. is entitled to reasonable attorney fees and costs. Motion for attorney fees to be filed by 12/7/2018. granting 483 Motion for Order to Show Cause Follow-Up Show Cause Hearing set for Thursday, 11/15/2018 at 09:00 AM in Rm 7.300 before Judge David Nuffer. Government may appear by video conferencing. Government counsel to email the request to dj.nuffer@utd.uscourts.gov to make arrangements. Mr.

		and Mrs. Shepard must be present for the hearing on 11/15/2018. Motion Hearing held on 11/8/2018 re 483 MOTION for Order to Show Cause and Memorandum in Support <i>why defendant R. Gregory Shepard should not be held in civil contempt</i> filed by USA. Court adjourned. Written Order to follow oral order: Yes. Attorney for Plaintiff: Christopher Moran, Attorney for Defendant Steven Paul. Receiver: Wayne Klein. Court Reporter: Becky Janke.(Time Start: 1:05, Time End: 1:32, Room 7.300.) (asb) (Entered: 11/08/2018)
11/09/2018	503	MOTION for Rule 52(b), 59(e) and 60(b) Relief re 480 Order on Motion for Attorney Fees and Memorandum in Support filed by Respondent Heideman & Associates. Motions referred to Evelyn J. Furse.(Heideman, Justin) Modified on 11/9/2018: corrected relief text (alt) (Entered: 11/09/2018)
11/09/2018	504	Motions No Longer Referred: 503 MOTION Rule 52(b), 59(e) and 60(b) Relief from October 23, 2018 Order re 480 Order on Motion for Attorney Fees and Memorandum in Support (nas) (Entered: 11/09/2018)
11/09/2018	505	ORDER OF CONTEMPT as to R. Gregory Shepard following findings of 11/8/18 Show Cause Hearing. Signed by Judge David Nuffer on 11/9/18 (alt) (Entered: 11/09/2018)
11/13/2018	506	Redacted RESPONSE re 505 Contempt Order, filed by R. Gregory Shepard. (Attachments: # 1 Exhibit Accounting of Funds-redacted, # 2 Exhibit Accounting of Income-redacted)(Paul, Steven) (Entered: 11/13/2018)
11/13/2018	507	AMENDED AND RESTATED JUDGMENT in favor of USA and against International Automated Systems, RaPower-3, Neldon Johnson, R. Gregory Shepard, jointly and severally, in the amount of \$50,025,480.00 as equitable monetary relief, up to and including the amount of gross receipts each received from the solar energy scheme as follows, together with post-judgment interest at the legal rate: Neldon Johnson, \$50,025,480; International Automated Systems, \$5,438,089; RaPower-3, \$25,874,066; and R. Gregory Shepard, \$702,001. The Order and Injunction and Compliance Verifications set forth in the Findings of Fact and Conclusions of Law shall remain in effect and survive the closure of this action. Signed by Judge David Nuffer on 11/13/18 (alt) (Entered: 11/13/2018)
11/15/2018	508	Minute Entry Counsel present for parties. Court reviewed for the record the contempt order and associated deadlines entered by the court on 11/9/2018. Discussion heard on the accounting, filed by Mr. Paul on 11/13/2018. Government called Matthew Shepard. Witness sworn and testified. Government called Diana Shepard. Witness sworn or testified. Government called R. Gregory Shepard. Witness sworn and testified. Court ordered that Mr. Shepard produce documentation of disbursement of \$6k by 11/21/2018. Plaintiff and receiver to brief the joint and several issue and what funds from whom, and attorney fees claim due noon, 12/7/2018. Response noon, 12/13/2018. Further hearing 12/20/2018 at 9:00 a.m. to complete this hearing. Court adjourned. for proceedings held before Judge David Nuffer: Show Cause Hearing held on 11/15/2018, (Show Cause Hearing set for 12/20/2018 at 09:00 AM in Rm 7.300 before Judge David Nuffer.). Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant: Steven Paul. Receiver: Wayne Klein. Court Reporter: Kelly Hicken.(Time Start: 8:59, Time End: 12:00, Room 7.300.)(asb) (Entered: 11/15/2018)
11/16/2018	509	MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTBI, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse. (Paul, Steven) (Entered: 11/16/2018)

11/16/2018	510	DECLARATION of Neldon Johnson re 492 Declaration <i>AMENDED</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Garriott, Daniel) (Entered: 11/16/2018)
11/19/2018	511	Motions No Longer Referred: 509 MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support (jjm) (Entered: 11/19/2018)
11/20/2018	512	ERRATA to 509 MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard . (Paul, Steven) (Entered: 11/20/2018)
11/21/2018	513	MEMORANDUM in Opposition re 503 MOTION for Rule 52(b), 59(e) and 60(b) Relief re 480 Order on Motion for Attorney Fees filed by Plaintiff USA. (Moran, Christopher) (Entered: 11/21/2018)
11/26/2018	514	DOCUMENT LODGED consisting of correspondence from JPMorgan Chase. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (alt) (Entered: 11/26/2018)
11/27/2018	515	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Show Cause Hearing held on November 15, 2018, before Judge David Nuffer, re 472 Notice of Appeal, 445 Notice of Appeal - Interlocutory. Court Reporter/Transcriber Kelly Brown Hicken CSR, RPR, RMR, Telephone number 801-521-7238.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 12/18/2018. Redacted Transcript Deadline set for 12/28/2018. Release of Transcript Restriction set for 2/25/2019 (alt) Modified by removing restricted text on 2/25/2019 (rgj). (Entered: 11/27/2018)</p>
11/28/2018	517	Defendant's REPLY to Response to Motion re 503 MOTION for Rule 52(b), 59(e) and 60(b) Relief re 480 Order on Motion for Attorney Fees filed by Respondent Heideman & Associates. (Heideman, Justin) (Entered: 11/28/2018)
11/29/2018	518	DOCUMENTS LODGED consisting of an e-mail from attorney Steven R. Paul. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (elm) (Entered: 11/29/2018)
11/29/2018	519	DOCUMENTS LODGED consisting of an e-mail from attorney Erin Healy Gallagher. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (elm) (Entered: 11/29/2018)
11/29/2018	520	DECLARATION of Neldon Johnson re 467 Findings of Fact & Conclusions of Law, Permanent Injunction (<i>Second Declaration of Compliance</i>) filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3. (Garriott, Daniel) (Entered: 11/29/2018)

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11/29/2018	521	DECLARATION OF R. Gregory Shepard (<i>Second Declaration of Compliance</i>) filed by R. Gregory Shepard. (Garriott, Daniel) (Entered: 11/29/2018)
11/29/2018	522	ORDER Vacating Hearing previously set for 9:00 a.m. on 12/20/18 and Limiting Briefs in re Civil Contempt. Signed by Judge David Nuffer on 11/29/18 (alt) (Entered: 11/29/2018)
11/30/2018	523	MEMORANDUM in Opposition re 509 MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support filed by Plaintiff USA. (Hines, Erin) (Entered: 11/30/2018)
11/30/2018	524	NOTICE of Appearance by Michael S. Lehr on behalf of Wayne Klein (Lehr, Michael) (Entered: 11/30/2018)
11/30/2018	525	MEMORANDUM in Opposition re 509 MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 11/30/2018)
11/30/2018	526	Receiver's FINANCIAL REPORT <i>Recommendation of Living Allowances</i> filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 11/30/2018)
12/03/2018	527	DECLARATION of R. Gregory Shepard re 491 Order filed by R. Gregory Shepard. (Paul, Steven) (Entered: 12/03/2018)
12/03/2018	528	DECLARATION of Neldon P. Johnson re 491 Order filed by Neldon Johnson. (Paul, Steven) (Entered: 12/03/2018)
12/04/2018	529	ORDER denying 451 Rule 59(e) and Rule 52(b) Motion. Signed by Judge David Nuffer on 12/4/18. (dla) (Entered: 12/04/2018)
12/04/2018	530	MOTION for Limited Relief from Asset Freeze and Memorandum in Support filed by Defendant Neldon Johnson. (Attachments: # 1 Exhibit Email from W. Klein, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Paul, Steven) Modified on 12/26/2018: corrected motion relief (alt) (Entered: 12/04/2018)
12/04/2018	531	AFFIDAVIT/DECLARATION of Neldon P. Johnson in Support re 530 MOTION and Memorandum in Support <i>for limited relief from asset freeze</i> filed by Defendant Neldon Johnson. (Paul, Steven) (Entered: 12/04/2018)
12/04/2018	532	Motions No Longer Referred: 530 MOTION and Memorandum in Support <i>for limited relief from asset freeze</i> (elm) (Entered: 12/04/2018)
12/05/2018	533	DOCKET TEXT ORDER taking under advisement 530 Defendant Neldon Johnson's Motion for Limited Relief from Asset Freeze Order (the "Motion"). Any response to the Motion shall be filed by no later than <u>Tuesday, December 18, 2018</u>, and any reply to the same shall be filed by no later than <u>12:00 p.m. on Friday, December 21, 2018</u>. Signed by Judge David Nuffer on December 5, 2018. No attached document. (elm) (Entered: 12/05/2018)
12/06/2018	534	MOTION for Attorney Fees and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Declaration of Erin Healy Gallagher, # 2 Exhibit Pl. Ex. 935, United States' attorney's fees and costs, # 3 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 12/06/2018)
12/07/2018	535	Motions No Longer Referred: 534 MOTION for Attorney Fees and Memorandum in Support (nas) (Entered: 12/07/2018)
12/07/2018	536	MOTION for Order Releasing Properties from Receivership Estate filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 12/07/2018)

12/10/2018	537	NOTICE of Intent to Serve Subpoena to Pacific Stock Transfer Company by Wayne Klein (Lehr, Michael) (Entered: 12/10/2018)
12/10/2018	538	Motions No Longer Referred: 536 MOTION for Order Releasing Properties from Receivership Estate (nas) (Entered: 12/10/2018)
12/11/2018	539	ORDER of USCA 10th Circuit as to 472 Notice of Appeal: abatement is lifted (alt) (Entered: 12/11/2018)
12/12/2018	540	Defendant's REPLY to Response to Motion re 509 MOTION to lift asset freeze order as to Solco I, LLC and XSun Energy, LLC and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Snuffer, Denver) (Entered: 12/12/2018)
12/12/2018	541	NOTICE OF WITHDRAWAL OF COUNSEL of Christopher Robert Moran filed by Christopher R. Moran on behalf of USA (Moran, Christopher) (Entered: 12/12/2018)
12/13/2018	542	RESPONSE to Motion re 534 MOTION for Attorney Fees and Memorandum in Support filed by Defendant R. Gregory Shepard. (Paul, Steven) (Entered: 12/13/2018)
12/14/2018	543	ERRATA to 526 Receivers Financial Report filed by Receiver Wayne Klein . (Attachments: # 1 Exhibit)(Lehr, Michael) (Entered: 12/14/2018)
12/18/2018	544	MEMORANDUM in Opposition re 530 MOTION and Memorandum in Support for <i>limited relief from asset freeze</i> filed by Plaintiff USA. (Attachments: # 1 Exhibit Ex. 936, Bank statements for -9233)(Gallagher, Erin) (Entered: 12/18/2018)
12/21/2018	545	NOTICE of Intent to Serve Subpoena to Roger Hamblin by Wayne Klein (Lehr, Michael) (Entered: 12/21/2018)
12/26/2018	546	REQUEST to Submit for Decision re 536 MOTION for Order Releasing Properties from Receivership Estate filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 12/26/2018)
12/26/2018	547	ORDER granting 534 Motion for Attorney Fees: Defendant R. Gregory Shepard shall pay to the USA attorneys' fees and costs in the total amount of \$3,273.79 by no later than 2/1/19. Signed by Judge David Nuffer on 12/26/18 (alt) (Entered: 12/26/2018)
12/26/2018	548	ORDER granting 536 Motion to Release Certain Properties from the Receivership Estate. Signed by Judge David Nuffer on 12/26/18 (alt) (Entered: 12/26/2018)
12/26/2018	549	MEMORANDUM DECISION AND ORDER granting in part and denying in part 530 Motion for Limited Relief from Asset Freeze Order. Signed by Judge David Nuffer on 12/26/18 (alt) (Entered: 12/26/2018)
12/27/2018	550	ORDER denying 509 Motion without prejudice pending completion of Receivers investigation and report in accordance with the Corrected Receivership Order. Signed by Judge David Nuffer on December 27, 2018. (elm) (Entered: 12/27/2018)
12/28/2018	551	MEMORANDUM DECISION AND ORDER granting in part and denying in part 503 Motion for Relief from 480 Fee Order: the 480 Order and 481 Judgement for Atty Fees are amended to apply only to Defendants International Automated Systems, LTB1, RaPower-3, Neldon Johnson. Signed by Judge David Nuffer on 12/28/18 (alt) (Entered: 12/28/2018)
12/31/2018	552	Receiver's FINANCIAL REPORT <i>Recommendation on Status of International Automated Systems, and Liquidation Plan</i> filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 12/31/2018)
01/10/2019	553	NOTICE of Intent to Serve Subpoena To Church of Jesus Christ of Latter-Day Saints by

		Wayne Klein (Lehr, Michael) (Entered: 01/16/2019)
01/14/2019	554	NOTICE of Intent to Serve Subpoena to Glenda Johnson by Wayne Klein (Lehr, Michael) (Entered: 01/14/2019)
01/14/2019	555	NOTICE of Intent to Serve Subpoena to Neldon Johnson by Wayne Klein (Lehr, Michael) (Entered: 01/14/2019)
01/18/2019	556	NOTICE of Intent to Serve Subpoena to Cyprus Credit Union by Wayne Klein (Lehr, Michael) (Entered: 01/18/2019)
01/28/2019	557	STATUS REPORT <i>Receiver's Initial Quarterly Status Report</i> by Wayne Klein. (Lehr, Michael) (Entered: 01/28/2019)
01/28/2019	558	DOCUMENT LODGED consisting of an Affidavit styled as filed by Pro Se Plaintiff by dft party who has legal representation and is not a plaintiff in the case. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # 1 Copy of Opening Brief filed with 10CCA) (alt) (Entered: 01/28/2019)
01/29/2019	559	MOTION for Order to Show Cause and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 937, Email from Receiver to Neldon and Glenda Johnson, # 2 Exhibit Pl. Ex. 938, Letter from Nelson Snuffer to Receiver, # 3 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 01/29/2019)
01/30/2019	560	Motions No Longer Referred: 559 MOTION for Order to Show Cause and Memorandum in Support (nas) (Entered: 01/30/2019)
01/31/2019	561	RESPONSE re 557 Status Report, filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit 1 - Email from Nelson to Klein 12-17-18, # 2 Exhibit 2 - Email from Klein to Nelson 12-18-18, # 3 Exhibit 3 - Letter from Nelson to Klein 12-26-18, # 4 Exhibit 4 - Email from Klein to Nelson 12-27-18, # 5 Exhibit 5 - Email from W Klein to D Nelson 12-18-18, # 6 Exhibit 6 - Release and Dismissal re R Button, # 7 Exhibit 7 - Order Re Dismissal of RaPower3 dated 5-11-16, # 8 Exhibit 8 - Order Re IAS Mot to Quash dated 5-11-16, # 9 Exhibit 9 - Order Re Dismissal of IAS dated 10-17-18)(Snuffer, Denver) (Entered: 01/31/2019)
02/01/2019	562	MOTION for Protective Order and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 02/01/2019)
02/01/2019	563	MOTION to Withdraw as Attorney and Memorandum in Support filed by Defendants International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Snuffer, Denver) (Entered: 02/01/2019)
02/01/2019	566	NOTICE of Intent to Appear Pro Se by Neldon Johnson (alt) (Entered: 02/08/2019)
02/01/2019	567	Amended AFFIDAVIT of Neldon P. Johnson filed by Neldon Johnson (Attachments: # 1 Supplement Copy of Opening Brief filed with 10CCA) (alt) (Entered: 02/08/2019)
02/04/2019	564	Motions No Longer Referred: 562 MOTION for Protective Order and Memorandum in Support , 563 MOTION to Withdraw as Attorney and Memorandum in Support (nas) (Entered: 02/04/2019)
02/07/2019	565	MOTION for Protective Order and Memorandum in Support <i>for Non-Party Glenda Johnson</i> filed by Defendant LTB1. (Attachments: # 1 Exhibit List of Documents Requested) Motions referred to Evelyn J. Furse.(Paul, Steven) (Entered: 02/07/2019)

02/07/2019	568	Pro Se MOTION for Protective Order filed by Defendant Neldon Johnson. Motion referred to Evelyn J. Furse (alt) (Entered: 02/08/2019)
02/11/2019	569	Motions No Longer Referred: 565 MOTION for Protective Order and Memorandum in Support <i>for Non-Party Glenda Johnson</i> , 568 MOTION for Protective Order (nas) (Entered: 02/11/2019)
02/12/2019	570	MEMORANDUM in Opposition re 562 MOTION for Protective Order and Memorandum in Support filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 02/12/2019)
02/13/2019	571	MOTION for Fee Application for 10/31/18 to 12/31/18 and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Time Summary, # 2 Exhibit Detailed Invoices, # 3 Exhibit Expenses, # 4 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 3/5/2019: corrected text (alt) (Entered: 02/13/2019)
02/14/2019	572	Motions No Longer Referred: 571 MOTION Fee Application and Memorandum in Support <i>First Fee Application for October 31, 2018 to December 31, 2018</i> (nas) (Entered: 02/14/2019)
02/15/2019	573	REQUEST to Submit for Decision re 559 MOTION for Order to Show Cause and Memorandum in Support filed by Plaintiff USA. (Gallagher, Erin) (Entered: 02/15/2019)
02/15/2019	574	OBJECTIONS to Deposition (5th Amendment Claim) filed by Neldon Johnson (Attachments: # 1 Supplement) (alt) (Entered: 02/15/2019)
02/18/2019	575	RESPONSE re 574 Objections, <i>Neldon Johnson's Fifth Amendment Claim</i> filed by Wayne Klein. (Lehr, Michael) (Entered: 02/18/2019)
02/19/2019	576	MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Company Should Not Be Held in Civil Contempt of Court for Violating the Corrected Receivership Order</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit 2018.11.12 Ltr from Receiver to PST, # 2 Exhibit Subpoena to PST and Affidavit of Service, # 3 Exhibit 2019.01.02 Ltr from PST to Receiver, # 4 Exhibit 2019.01.15 Email from PST, # 5 Exhibit 2019.01.18 Ltr to PST) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 3/5/2019: corrected carry-forward text (alt). (Entered: 02/19/2019)
02/19/2019	577	MOTION for Protective Order and Memorandum in Support filed by Defendant Neldon Johnson. Motions referred to Evelyn J. Furse.(Snuffer, Denver) (Entered: 02/19/2019)
02/20/2019	578	Motions No Longer Referred: 577 MOTION for Protective Order and Memorandum in Support, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Company Should Not Be Held in Civil Contempt of Court for Violating the Corrected Receivership Order</i> (nas) (Entered: 02/20/2019)
02/20/2019	579	MEMORANDUM in Opposition re 565 MOTION for Protective Order and Memorandum in Support <i>for Non-Party Glenda Johnson</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Acknowledgment of Receipt, # 2 Exhibit Email Thread Steven Paul, # 3 Exhibit Email Tread Process Server)(Lehr, Michael) (Entered: 02/20/2019)
02/20/2019	580	MEMORANDUM in Opposition re 568 MOTION for Protective Order <i>of Neldon Johnson</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Email Thread Steven Paul, # 2 Exhibit Email Tread Process Server)(Lehr, Michael) (Entered: 02/20/2019)
02/25/2019	581	NOTICE of Report and Recommendation on Inclusion of Affiliates/Subsidiaries in Receivership Estate by Wayne Klein (Lehr, Michael) Modified on 2/26/2019: added title text (alt) (Entered: 02/25/2019)

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03/01/2019	582	MOTION to include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 03/01/2019)
03/01/2019	583	REQUEST to Submit for Decision re 571 MOTION Fee Application and Memorandum in Support <i>First Fee Application for October 31, 2018 to December 31, 2018</i> filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 03/01/2019)
03/04/2019	584	Motions No Longer Referred: 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) and Memorandum in Support (nas) (Entered: 03/04/2019)
03/04/2019	585	REQUEST to Submit for Decision re 562 MOTION for Protective Order and Memorandum in Support , 570 Memorandum in Opposition to Motion for <i>Protective Order</i> filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 03/04/2019)
03/04/2019	586	NOTICE of Non-Parties' Notice of Intent to File an Opposition to Receiver's Motion to Include Affiliates and Subsidiaries in the Receivership Estate by Neldon Johnson, R. Gregory Shepard re 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) and Memorandum in Support (Snuffer, Denver) (Entered: 03/04/2019)
03/05/2019	587	MEMORANDUM in Opposition re 577 MOTION for Protective Order and Memorandum in Support <i>Glenda Johnson Spousal Privilege</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Email to Nelson Snuffer, # 2 Exhibit RaPower checks signed by Glenda Johnson)(Lehr, Michael) (Entered: 03/05/2019)
03/05/2019	588	ORDER taking under advisement 559 Motion for Order to Show Cause; taking under advisement 576 Motion for Order to Show Cause. Service to be made on those named in the motions and briefing deadlines set. Signed by Judge David Nuffer on 3/5/19 (alt) (Entered: 03/05/2019)
03/05/2019		PER 588 ORDER: Evidentiary Motion Hearing set for 4/26/2019 at 09:30 AM in Rm 7.300 before Judge David Nuffer as to 559 MOTION for Order to Show Cause, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> (alt) (Entered: 03/05/2019)
03/06/2019	589	MEMORANDUM DECISION AND ORDER denying 562 Motion for Protective Order Under Rule 26(c). Signed by Judge David Nuffer on 3/5/19 (alt) (Entered: 03/06/2019)
03/06/2019	590	ORDER granting 571 Motion for Approval of Fee Application, 10/31/18 to 12/31/18. Signed by Judge David Nuffer on 3/6/19 (alt) (Entered: 03/06/2019)
03/06/2019	591	MEMORANDUM DECISION AND ORDER denying 565 Motion for Protective Order; denying 568 Motion for Protective Order: the Johnsons must comply with the subpoenas by no later than 3/22/19. Signed by Judge David Nuffer on 3/6/19 (alt) (Entered: 03/06/2019)
03/06/2019	592	ORDER granting 563 Motion to Withdraw as Attorney. Attorneys Steven R. Paul; Denver C. Snuffer, Jr; Joshua D. Egan; and Daniel B. Garriott are withdrawn from case for International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. Signed by Judge David Nuffer on 3/6/19 (alt) (Entered: 03/06/2019)
03/07/2019	593	MEMORANDUM DECISION denying 577 Motion for Protective Order as to Glenda Johnson. Signed by Judge David Nuffer on 3/6/19 (alt) (Entered: 03/07/2019)
03/13/2019	594	NOTICE of Service by USA re 559 MOTION for Order to Show Cause, 588 Order on Motion for Order to Show Cause,,, (Attachments: # 1 Certificate of Service, # 2 Affidavit

		of Service on Glenda Johnson, # 3 Affidavit of Service on Randal Johnson, # 4 Affidavit of Service on LaGrand Johnson) (Gallagher, Erin) (Entered: 03/13/2019)
03/13/2019	595	NOTICE of Service by Wayne Klein re 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> , 588 Order on Motion for Order to Show Cause,,, (Attachments: # 1 Affidavit Service Pacific Stock Transfer) (Lehr, Michael) (Entered: 03/13/2019)
03/15/2019	596	RESPONSE to Motion re 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) filed by Respondents Glenda Johnson, Solco I, XSun Energy. (Snuffer, Denver) (Entered: 03/15/2019)
03/18/2019	597	MEMORANDUM in Opposition re 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate (also opposing report filed as 581 Notice (Other)) filed by Defendant Neldon Johnson (alt) (Entered: 03/18/2019)
03/21/2019	598	MOTION to Appoint Expert Appraiser (T.V. Boyer) and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit Appraisal Bid, # 3 Exhibit Resume & License) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 4/9/2019: corrected motion relief (alt) (Entered: 03/21/2019)
03/21/2019	599	MOTION to Appoint Expert Appraiser (C.A. Peterson) and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit Resume, References and License) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 4/9/2019: corrected motion relief (alt) (Entered: 03/21/2019)
03/22/2019	600	Motions No Longer Referred: 599 MOTION Appoint Appraiser and Memorandum in Support , 598 MOTION Appoint Appraiser and Memorandum in Support (nas) (Entered: 03/22/2019)
03/27/2019	601	Mail sent to Neldon Johnson re docket entry 593 Returned as Not Deliverable as Addressed. Street address on his documents, '2800 W 4000 S' is unrecognized by USPS. No answer at phone number. Address will be changed to 2730 W 4000 S and mail will be resent to that address. (alt) (Entered: 03/27/2019)
03/29/2019	602	REPLY to Response to Motion re 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Solco Operating Agreement, # 2 Exhibit XSun Operating Agreement, # 3 Exhibit Shareholder Agreement, # 4 Exhibit Voting Trust Agreement, # 5 Exhibit Notice of Resignation, # 6 Exhibit Email)(Lehr, Michael) (Entered: 03/29/2019)
04/01/2019	603	REQUEST to Submit for Decision re 582 MOTION to Include Affiliates and Subsidiaries in the Receivership Estate re 581 Notice (Other) filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 04/01/2019)
04/05/2019	604	MOTION Lift Stay to Allow Settlement of Tax Case and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 04/05/2019)
04/08/2019	605	Motions No Longer Referred: 604 MOTION Lift Stay to Allow Settlement of Tax Case and Memorandum in Support (elm) (Entered: 04/08/2019)
04/08/2019	606	REQUEST to Submit for Decision re 559 MOTION for Order to Show Cause, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 04/08/2019)
04/09/2019	607	ORDER granting 598 Motion to Appoint Expert Appraiser (T.V. Boyer); granting 599 Motion to Appoint Expert Appraiser (C.A. Peterson). Signed by Judge David Nuffer on

		4/9/19 (alt) (Entered: 04/09/2019)
04/15/2019	608	STATUS REPORT <i>Receiver's Second Quarterly Status Report</i> by Wayne Klein. (Lehr, Michael) (Entered: 04/15/2019)
04/17/2019	609	ORDER: Witness/Exhibit List for 4/26/19 Evidentiary Hearing is to be filed by no later than 4/24/19 at 12:00 pm. Signed by Judge David Nuffer on 4/17/19 (alt) (Entered: 04/17/2019)
04/18/2019	610	MOTION for Order of (1) Public Sale of Property Free and Clean of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order, # 2 Exhibit B - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 04/18/2019)
04/19/2019	611	Motions No Longer Referred: 610 MOTION for Order of (1) Public Sale of Property Free and Clean of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (nas) (Entered: 04/19/2019)
04/24/2019	612	Proposed Exhibit List <i>and Witness List</i> by Plaintiff USA.. (Gallagher, Erin) (Entered: 04/24/2019)
04/24/2019	613	Proposed Witness List <i>and Exhibit List for Hearing on 4-26-2019</i> by Glenda Johnson, LaGrand Johnson, Randale Johnson. (Paul, Steven) (Entered: 04/24/2019)
04/24/2019	614	Proposed Witness List <i>and Exhibit List for Hearing on 4-26-2019</i> by R. Gregory Shepard. (Paul, Steven) (Entered: 04/24/2019)
04/24/2019	615	Proposed Witness List <i>and Exhibit List for the Evidentiary Hearing on Show-Cause Motions</i> by Wayne Klein. (Lehr, Michael) (Entered: 04/24/2019)
04/24/2019	616	Proposed Witness and Exhibit List by Neldon Johnson (Attachments: # 1 Exhibit 1) (alt) (Entered: 04/24/2019)
04/24/2019	617	MOTION to Dismiss Party Receiver, MOTION to Dismiss and Memorandum in Support filed by Defendant Neldon Johnson (Attachments: # 1 Appendix) (alt) (Entered: 04/24/2019)
04/26/2019	618	ORDER granting 604 Motion to Lift Stay to Allow Settlement of Tax Case: The Litigation Stay is lifted solely to allow the IRS, R. Gregory Shepard and Diana C. Shepard to execute documents and to allow the Tax Court to enter any orders necessary to resolve the United States Tax Court, Case No. 002826-18. If a settlement agreement is not submitted and the Tax Court Case is not dismissed within 60 days of this Order, the Tax Court Case will automatically be stayed in accordance with paragraphs 44 through 48 of the Corrected Receivership Order. Signed by Judge David Nuffer on 4/25/19 (alt) (Entered: 04/26/2019)
04/26/2019	619	Minute Order. Proceedings held before Judge David Nuffer: Counsel and pro se parties present. No appearance for Pacific Stock Transfer. Mr. Lehr and Mr. Klein addressed the court as to the status of Pacific Stock Transfer, offering Exhibits 1-6. Court received the exhibits. Court made findings on the record that Pacific Stock Transfer is in contempt. Mr. Lehr to prepare and submit the proposed order for contempt, noting that the \$2,000 fine is due 10 days after entry of the order, and motion to attorneys fees, noting the response due 14 days after filing. Mr. Lehr offered Exhibits 1 thru 6. Court received. Court instructed Mr. Lehr to email the exhibits to chambers. Ms. Healy Gallagher called Wayne Klein. Witness sworn and testified. Government offered Exhibits 937, 938, 939, 941, 507, 946, 947, 948, 949, 950, 945. No objections. Exhibits received. Government offered Exhibit 834. Objection heard. Court received Exhibit 834, pages 1, 2, 3,11 and 12 only. Government offered Exhibit 943. Objection

		<p>heard. Court will receive, subject to a correct Exhibit 943 being submitted. The current Exhibit 943 will only be used as a summary. Government offered Exhibit 941, subject to correction. No objections. Exhibit received, subject to correction.</p> <p>Mr. Paul addressed the court as to why his clients, Neldon (prior client) and Glenda Johnson (current client), did not appear for their scheduled depositions. Court ordered that Neldon Johnsons and Glenda Johnsons depositions must be taken before May 3, 2019. Counsel have agreed to schedule Glenda Johnson on Wednesday, May 1, 2019 and Neldon Johnson on Thursday, May 2, 2019.</p> <p>Court continued this matter until Friday, May 3, 2019 at 8:30 a.m.</p> <p>Court adjourned.</p> <p>taking under advisement 559 Motion for Order to Show Cause.; taking under advisement 576 Motion for Order to Show Cause.; Motion Hearing held on 4/26/2019 re 559 MOTION for Order to Show Cause filed by USA, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> filed by Wayne Klein. Attorney for Plaintiff: Erin Healy Gallagher, Attorney for Defendant Steven Paul, Neldon Johnson, Gregory Shepard. Court Reporter: Becky Janke. (Time Start: 9:35, Time End: 12:44, Room 7.300.) (asb) (Entered: 04/26/2019)</p>
04/26/2019		<p>Set Evidentiary Motion Hearing as to 559 MOTION for Order to Show Cause, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i>.</p> <p>Motion Hearing continued until Monday, 5/3/2019 at 08:30 AM in Rm 7.300 before Judge David Nuffer. (asb) (Entered: 04/26/2019)</p>
04/29/2019	620	DECLARATION of R. Gregory Shepard <i>Relating to Compliance Verification of ECF 491 paragraph 24 and 26</i> filed by R. Gregory Shepard. (Paul, Steven) (Entered: 04/29/2019)
04/29/2019	621	DECLARATION of Randale Johnson <i>Relating to Compliance Verification of ECF 491 paragraph 24</i> filed by Randale Johnson. (Paul, Steven) (Entered: 04/29/2019)
04/29/2019	622	DECLARATION of LaGrand Johnson <i>Relating to Compliance Verification of ECF 491 paragraph 24</i> filed by LaGrand Johnson. (Paul, Steven) (Entered: 04/29/2019)
04/29/2019	623	DECLARATION of Glenda Johnson <i>Relating to Compliance Verification of ECF 491 paragraph 24</i> filed by Glenda Johnson. (Paul, Steven) (Entered: 04/29/2019)
04/29/2019	624	ORDER denying 617 Motion to Dismiss Party (Receiver); denying 617 Motion to Dismiss Case. Signed by Judge David Nuffer on 4/29/19 (alt) (Entered: 04/29/2019)
04/29/2019	625	DECLARATION of Neldon P. Johnson re 491 Order filed by Neldon Johnson (Attachments: # 1 Appendix of documents) (alt) (Entered: 04/30/2019)
04/30/2019	626	NOTICE OF APPEAL as to 619 Minute Order on Motion, 624 Order on Motion to Dismiss, filed by Neldon Johnson. Appeals to the USCA for the 10th Circuit. Fee Status: Not Paid. Filing fee \$ 505.00 (alt) (Entered: 04/30/2019)
04/30/2019	627	Transmission of Preliminary Record to USCA re 626 Notice of Appeal (Attachments: # 1 Appendix) (alt) (Entered: 04/30/2019)
04/30/2019	628	MOTION Commence Legal Proceedings and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 5/9/2019: corrected carry forward text (alt) (Entered: 04/30/2019)
05/01/2019	629	USCA Case Number Case Appealed to Tenth Case Number 19-4066 for 626 Notice of Appeal filed by Neldon Johnson. (jmr) (Entered: 05/01/2019)
05/01/2019	630	Motions No Longer Referred: 628 MOTION Commence Legal Proceedings and

		Memorandum in Support (nas) (Entered: 05/01/2019)
05/02/2019	631	DOCKET TEXT ORDER taking under advisement 628 Motion for Leave to Commence Legal Proceedings. Any response to the 628 motion must be filed by no later than <u>May 9, 2019</u>. Signed by Judge David Nuffer on 5/2/2019. No attached document. (jds) (Entered: 05/02/2019)
05/02/2019	632	DOCUMENTS LODGED consisting of Subpoenas to Appear and Testify in Civil Action to Magistrate Judge Evelyn J. Furse and David Nuffer, issued 4/24/2019. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 05/02/2019)
05/02/2019	633	MEMORANDUM DECISION AND ORDER Quashing Subpoenas. Defendant Neldon Johnson caused subpoenas to be issued on April 24, 2019, commanding District Judge David Nuffer and Magistrate Judge Evelyn J. Furse to appear at a hearing in this case on April 26, 2019. Johnson served the Subpoenas by U.S. mail, addressed to the federal courthouse in Salt Lake City, where they were received on April 29, 2019. Among other deficiencies, the Subpoenas were not timely or properly served.THEREFORE, IT IS HEREBY ORDERED that the Subpoenas are QUASHED. Signed by Judge David Nuffer on 5/2/2019. (jds) (Entered: 05/02/2019)
05/03/2019	634	Minute Order. Proceedings held before Judge David Nuffer: taking under advisement 559 Motion for Order to Show Cause.; taking under advisement 576 Motion for Order to Show Cause.; Motion Hearing held on 5/3/2019 re 559 MOTION for Order to Show Cause filed by USA, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> filed by Wayne Klein. Counsel and pro se parties present. Mr. Klein stated that the depositions of Neldon Johnson and Glenda Johnson were completed. Declarations were filed and received 620 621 622 623 625 . Ms. Healy Gallagher and Mr. Klein responded as to additional direct examination is necessary, after reviewing the declarations. Discussion heard on the boxes and thumb drives that have been delivered over the course of the past week. Court allowed to re-open direct examination of Mr. Klein. Discussion heard on Exhibits 834 and 945. Ms. Healy Gallagher stated that Exhibit 945 was received on 4/26/2019 and provided by email. Mr. Paul continues to object to the Exhibit 834 in its entirety on relevance. Mr. Shepard and Mr. Johnson had no objections. Court received Exhibit 834 in its entirety. Court instructed Ms. Healy Gallagher to provide a declaration on business records. Mr. Klein returned to continue testimony. Government moved to admit Exhibits 2007, 2009. No objections. Court received. Government moved to admit Exhibit 2010. Objection heard and withdraw. Court received. Government moved to admit Exhibits 2100, 2101, 2074, 2102. No objections. Court received. Mr. Johnson offered Exhibits 2085 and 2086. No objections. Court received. Court addressed the issues of effectively concluding these proceedings. Counsel and pro se parties responded. Court ordered Mr. Johnson to obtain documents from the identified affiliates with first delivery by May 10 (along with the computer) and second delivery May 17, 2019 to the receiver. Ms. Healy Gallagher to prepare a proposed order listing all items to be delivered and submit by Monday, 5/6/2019. All of Ms. Glenda Johnsons bank and real estate records going back to 2013 be provided by May 17, 2019. Court continued this hearing until May 28, 2019 at 8:30 a.m. Mr. Klein requested that the Cobblestone bank accounts of Glenda Johnsons (Account #2190 and Folks Account, both located at Bank of American Fork) be frozen until until a determination of whether those are receivership proceeds. Ms. Healy Gallagher addressed the request. Mr. Paul responded after speaking with his client. He will have a stipulation signed and filed as quickly as possible. The two accounts and balances are secured and will not change, and provide bank account records to the receiver and continue on a

		<p>monthly basis.</p> <p>Ms. Healy Gallagher requested that sworn statements of Mr. Shepard and Mr. Johnson to be delivered by May 21, 2019. Court granted the request. Ms. Healy Gallagher requested an order of contempt on all respondents. Court made findings on the record as to the non-compliance of the court's valid order. Court did not make findings as to contempt at this time.</p> <p>Court adjourned.</p> <p>Attorney for Plaintiff: Erin Healy Gallagher. Attorney for Receiver: Jeffery Balls. Attorney for Defendant Steven Paul, Neldon Johnson, Gregory Shepard. Court Reporter: Kelly Hicken (Time Start: 8:30, Time End: 2:55, Room 7.300.) (asb) (Entered: 05/03/2019)</p>
05/03/2019		<p>Set/Reset Deadlines as to 559 MOTION for Order to Show Cause, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i>. Evidentiary Motion Hearing continued until Tuesday, 5/28/2019 at 08:30 AM in Rm 7.300 before Judge David Nuffer. (asb) (Entered: 05/03/2019)</p>
05/03/2019	635	<p>ORDER Regarding Requests for Attorney, Expert, or Other Services Without Payment of Fee. If either Defendant R. Gregory Shepard or Defendant Neldon Johnson requests the appointment of an attorney in this case without payment of fee in connection with the pending contempt proceedings, they must each complete, sign, and file by no later than 12:00 p.m. on Monday, May 13, 2019, a copy of the Financial Affidavit in Support of Request for Attorney, Expert, or Other Services Without Payment of Fee. Signed by Judge David Nuffer on 5/3/2019. (Attachments: # 1 Financial Affidavit)(mas) (Entered: 05/03/2019)</p>
05/03/2019	636	<p>MEMORANDUM DECISION AND ORDER granting 582 Receiver's Motion to Include Affiliates and Subsidiaries in Receivership. Any person who may have an objection to this Memorandum Decision and Order, whether in whole or in part, must file such objection in this case within 21 days of receiving actual notice of this Memorandum Decision and Order or else such objection shall be considered waived. Signed by Judge David Nuffer on 5/3/2019. (jds) (Entered: 05/03/2019)</p>
05/06/2019	637	<p>ORDER Directing R. Gregory Shepard to Submit Information; Directing Receiver to Confer with R. Gregory Shepard; and Directing Receiver to Make Recommendation: Based on information developed at the hearing on May 3, 2019, Defendant R. Gregory Shepard must complete a summary of his financial circumstances, including a complete statement of income, expenses, assets, and liabilities. Shepard must file this summary under seal and deliver a copy to the Receiver by <i>May 15, 2019</i>. Thereafter, the Receiver must confer with Shepard regarding Shepard's financial circumstances and evaluate the adequacy of the living expenses allowance Shepard receives. The Receiver is further directed to file a recommendation for any changes to Shepards living expenses allowance by <i>May 24, 2019</i>. The law firm of Nelson Snuffer Dahle & Poulsen is directed to e-mail a copy of this Order to Defendant R. Gregory Shepard immediately. Signed by Judge David Nuffer on 5/6/19. (dla) (Entered: 05/06/2019)</p>
05/06/2019	638	<p>NOTICE from the Court Re: Compliance and Adverse Inferences. Signed by Judge David Nuffer. (dla) (Entered: 05/06/2019)</p>
05/07/2019	640	<p>**RESTRICTED DOCUMENT** NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Hearing held on April 26, 2019, before Judge David Nuffer. Court Reporter/Transcriber Rebecca Janke, CSR, RMR, Telephone number 801-521-7238.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of</p>

		<p>the parties intent to redact personal data identifiers from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/28/2019. Redacted Transcript Deadline set for 6/7/2019. Release of Transcript Restriction set for 8/5/2019 (alt) (Entered: 05/07/2019)</p>
05/08/2019	642	MOTION for Attorney Fees re 576 Motion for Order to Show Cause - PSTC filed by Receiver Wayne Klein. (Attachments: # 1 Affidavit Declaration of Michael Lehr, # 2 Affidavit Declaration of Wayne Klein) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 5/9/2019: corrected entry text (alt) (Entered: 05/08/2019)
05/08/2019	643	RESPONSE to Motion re 628 MOTION to Commence Legal Proceedings filed by Respondents Glenda Johnson, LaGrand Johnson, Randale Johnson, Solco I, XSun Energy. Attorney Steven R. Paul added to party LaGrand Johnson(pty:res), Attorney Steven R. Paul added to party Randale Johnson(pty:res)(Paul, Steven) Modified on 5/9/2019: corrected carried-forward text (alt) (Entered: 05/08/2019)
05/08/2019	644	RESPONSE re 638 Notice (Other), <i>Court's Notice RE Compliance and Adverse Inferences</i> filed by International Automated Systems, Neldon Johnson, LTB1, RaPower-3, R. Gregory Shepard. (Attachments: # 1 Exhibit Search Warrant Items Seized)(Paul, Steven) (Entered: 05/08/2019)
05/09/2019	645	STRICKEN PER 680 ORDER - OBJECTIONS to 638 Notice from the Court Re: Compliance and Adverse Inferences filed by Neldon Johnson (alt) Modified on 5/24/2019: added stricken info to entry (alt) (Entered: 05/09/2019)
05/09/2019	646	Proposed Witness/Exhibit List by Neldon Johnson (alt) (Entered: 05/09/2019)
05/10/2019	647	Motions No Longer Referred: 642 MOTION for Attorney Fees re 576 Motion for Order to Show Cause - PSTC (nas) (Entered: 05/10/2019)
05/10/2019	648	DECLARATION of R. Gregory Shepard (<i>Second</i>) Relating to Compliance Verification of ECF 491 paragraph 24 filed by R. Gregory Shepard. (Attachments: # 1 Exhibit Attachment 1 - Ameritrade, # 2 Exhibit Attachment 2 - Closing Documents)(Paul, Steven) (Entered: 05/10/2019)
05/13/2019	649	NOTICE of Service upon Pacific Stock Transfer Company by Wayne Klein re 642 MOTION for Attorney Fees re 576 Motion for Order to Show Cause - PSTC and Proposed Order (Attachments: # 1 Exhibit Proposed Order, # 2 Exhibit Affidavit of Process Server) (Lehr, Michael) (Entered: 05/13/2019)
05/14/2019	650	<p>**SEALED DOCUMENT** re 637 Order,,,,, Set Deadlines,,,, filed by Defendant R. Gregory Shepard</p> <p>NOTE: Filer is instructed to serve the sealed document on all other parties.. (Paul, Steven) (Entered: 05/14/2019)</p>
05/15/2019	651	MOTION for Second Interim Fee Application for 1/1/2019 - 3/31/2019 filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Time Summary, # 2 Exhibit B - Time Detail, # 3 Exhibit C - Expenses, # 4 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 05/15/2019)

05/16/2019	652	DOCKET TEXT Order Finding Mr. Neldon Johnson Indigent. Court orders the Appointment of CJA Counsel, Edwin S. Wall for Neldon Johnson. No attached document. Signed by Judge David Nuffer on 5/16/2019. (asb) (Entered: 05/16/2019)
05/16/2019	653	Motions No Longer Referred: 651 MOTION for Second Interim Fee Application for 1/1/2019 - 3/31/2019 (nas) (Entered: 05/16/2019)
05/16/2019	654	NOTICE OF FILING of Proposed Order <i>Re: Civil Contempt of Pacific Stock Transfer Company</i> filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) (Lehr, Michael) (Entered: 05/16/2019)
05/16/2019	655	NOTICE of Appearance by Edwin S. Wall on behalf of Neldon Johnson (Wall, Edwin) (Entered: 05/16/2019)
05/16/2019	656	DECLARATION of R. Gregory Shepard <i>Third Supplemental Declaration in Compliance with ECF 491 p.26</i> filed by R. Gregory Shepard. (Attachments: # 1 Exhibit Expenses over \$1000)(Paul, Steven) (Entered: 05/16/2019)
05/17/2019	657	MOTION to Withdraw as Attorney <i>And For Standby Designation</i> filed by Defendant Neldon Johnson. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Wall, Edwin) (Entered: 05/17/2019)
05/17/2019	658	Motions No Longer Referred: 657 MOTION to Withdraw as Attorney <i>And For Standby Designation</i> (elm) (Entered: 05/17/2019)
05/17/2019	659	REPLY to Response to Motion re 628 MOTION to Commence Legal Proceedings filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 05/17/2019)
05/18/2019	660	ORDER taking under advisement 657 Motion to Withdraw as Attorney. Mr. Wall is, and shall continue to be, counsel of record for Defendant Neldon Johnson in connection with the pending contempt proceedings in this case. Should another qualified attorney timely enter an appearance for Johnson, certifying readiness to proceed, the court may take action on the motion. In the meantime, Mr. Wall and Mr. Johnson are expected to attend and be fully prepared for the previously-scheduled May 28, 2019 hearing and all related proceedings in this case. Any party having an email address for Mr. Johnson shall serve a copy of this order on Mr. Johnson by email. Signed by Judge David Nuffer on May 18, 2019. (DN) (Entered: 05/18/2019)
05/20/2019	661	MOTION to Approve (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Sale Order, # 2 Exhibit B - Appraisal, # 3 Exhibit C - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 05/20/2019)
05/20/2019	662	Motions No Longer Referred: 661 MOTION to Approve (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (jjm) (Entered: 05/20/2019)
05/21/2019	663	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Hearing held on May 3, 2019, before Judge David Nuffer, re 626 Notice of Appeal, 472 Notice of Appeal. Court Reporter/Transcriber Kelly Brown Hicken CSR, RPR, RMR, Telephone number 801-521-7238. NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be

		<p>filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/11/2019. Redacted Transcript Deadline set for 6/21/2019. Release of Transcript Restriction set for 8/19/2019 (alt) Modified by removing restricted text on 8/19/2019 (rks). (Entered: 05/21/2019)</p>
05/21/2019	669	DECLARATION of Neldon P. Johnson filed by Neldon Johnson (alt) (Entered: 05/23/2019)
05/21/2019	670	NOTICE of Tolling by Neldon Johnson (Attachments: # 1 Copy of USCA Order) (alt) (Entered: 05/23/2019)
05/23/2019	664	OBJECTIONS to 636 Order on Motion for Miscellaneous Relief,, Memorandum Decision, filed by XSun Energy. (Attachments: # 1 Exhibit Checks to XSun, # 2 Exhibit Correspondence with Kirton & McConkie, # 3 Exhibit Engagement Agreement with Kirton & McConkie, # 4 Exhibit Invoices to XSun)(Paul, Steven) (Entered: 05/23/2019)
05/23/2019	665	OBJECTIONS to 636 Order on Motion for Miscellaneous Relief,, Memorandum Decision, filed by Solco I. (Attachments: # 1 Exhibit Kirton McConkie Memorandum, # 2 Exhibit K&M Purchase Contract for Solco I, # 3 Exhibit Solco Escrow Agreement (redacted))(Paul, Steven) (Entered: 05/23/2019)
05/23/2019	666	ERROR: NOT FILED BY G. JOHNSON - OBJECTIONS to 636 Order on Motion for Miscellaneous Relief,, Memorandum Decision, filed by Glenda Johnson. (Snuffer, Denver) Modified on 5/23/2019: marked as filed in error, incorrectly added text removed (alt) (Entered: 05/23/2019)
05/23/2019	667	NOTICE OF DEFICIENCY re 666 Objections. The document was filed as if by Glenda Johnson, however the attached document does not identify her as a filing party and instead indicates several non-parties to this case as filers. The document will be marked as filed in error. Filers are reminded that they must contact the court to have parties added before attempting to file on behalf of any party not already named in the case. (alt) (Entered: 05/23/2019)
05/23/2019	668	ORDER granting 610 Motion Regarding Public Sale of San Bernadino Property. Signed by Judge David Nuffer on 5/23/19 (alt) (Entered: 05/23/2019)
05/24/2019	671	DOCUMENTS LODGED consisting of correspondence between parties regarding proposed orders. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (Attachments: # 1 Additional follow-up correspondence between parties regarding, and with copies of, proposed orders.)(elm) Modified on 5/24/2019: the Pdf of this correspondence was emailed to R. Gregory Shepard by the law clerk (alt) (Entered: 05/24/2019)
05/24/2019	672	STIPULATED ORDER Regarding Funds Held By Glenda Johnson, following 634 Hearing/Minute Order on 576 Motion for Order to Show Cause. Signed by Judge David Nuffer on 5/24/19 (alt) Modified on 5/24/2019: added link to underlying motion (alt) (Entered: 05/24/2019)
05/24/2019	673	ORDER granting 628 Motion to Commence Legal Proceedings. Signed by Judge David Nuffer on 5/24/19 (alt) (Entered: 05/24/2019)

05/24/2019	674	NOTICE of Appearance by Denver C. Snuffer, Jr on behalf of Black Night Enterprises, NP Johnson Family Limited Partnership, Solstice Enterprises, Starlight Holdings (Snuffer, Denver) (Entered: 05/24/2019)
05/24/2019	675	OBJECTIONS to 636 Order on Motion for Miscellaneous Relief,, Memorandum Decision, filed by Black Night Enterprises, NP Johnson Family Limited Partnership, Solstice Enterprises, Starlight Holdings. (Snuffer, Denver) (Entered: 05/24/2019)
05/24/2019	676	WRITTEN ORDER for Production, following 634 Minute Order on Motion for Order to Show Cause (follows oral order/hearing of 5/3/19). Signed by Judge David Nuffer on 5/24/19 (alt) (Entered: 05/24/2019)
05/24/2019	677	ORDER RE CIVIL CONTEMPT of Pacific Stock Transfer Company, granting 576 Motion for Order to Show Cause. Signed by Judge David Nuffer on 5/24/19 (alt) (Entered: 05/24/2019)
05/24/2019	678	DOCKET TEXT ORDER re 677 Order: The Receiver is ordered to serve a copy of the Order re Contempt upon Pacific Stock Transfer Company as no counsel has appeared for the 'Respondent'. So ordered by Judge David Nuffer on 5/24/19 (docket text only - no attached document) (alt) (Entered: 05/24/2019)
05/24/2019	679	STIPULATION re 543 Errata, 526 Receivers Financial Report <i>Receiver's Recommendation for Living Expenses Allowance for Gregory Shepard</i> by Wayne Klein. (Attachments: # 1 Text of Proposed Order)(Lehr, Michael) (Entered: 05/24/2019)
05/24/2019	680	ORDER re Objections to 638 Notice re: Compliance and Adverse Inferences: 644 Response (NOT to motion) is overruled, and 645 Objection is stricken. Signed by Judge David Nuffer on 5/24/19 (alt) (Entered: 05/24/2019)
05/24/2019	681	ORDER directing living expenses allowance for R. Gregory Shepard. Signed by Judge David Nuffer on 5/24/19 (alt) (Entered: 05/24/2019)
05/24/2019	684	DECLARATION on Accounting filed by Neldon Johnson (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15 - last 17 pages are scanned as-is, the originals were skewed, cutting off text) (alt) (Entered: 05/28/2019)
05/27/2019	682	MOTION for Cancellation of IAS Shares re 552 Receivers Financial Report <i>re Recommendation of Publicly-Traded Status of IAS and Liquidation Plan</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit Excerpt from Neldon Johnson Deposition, # 2 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) Modified on 7/8/2019: corrected carry forward text (alt) (Entered: 05/27/2019)
05/28/2019	683	Motions No Longer Referred: 682 MOTION Cancellation of IAS Shares re 552 Receivers Financial Report <i>re Recommendation of Publicly-Traded Status of IAS and Liquidation Plan</i> (jjm) (Entered: 05/28/2019)
05/28/2019	685	Minute Entry for proceedings held before Judge David Nuffer: Motion Hearing held on 5/28/2019 re 559 MOTION for Order to Show Cause filed by USA, 576 MOTION for Order to Show Cause <i>Why Pacific Stock Transfer Shouldn't Be Held in Civil Contempt for Violating the CRO</i> filed by Wayne Klein. Counsel and pro se parties present. Mr. Wall stated that Neldon Johnson has retained Denver Snuffer. However, Mr. Snuffer is unable to certify that he is unable to go forward with todays proceedings and would request a continuance. The order issued 5/18/2019 states that if Mr. Johnson was to retain counsel, that they would be certified to be ready for todays proceedings. Mr. Snuffer addressed the court on the retention and preparedness for the contempt proceedings. If Mr. Snuffer is not allowed to represent Mr. Johnson, then

Mr. Johnson would request to proceed pro se. Court stated that the hearing will go forward today as scheduled, then, if this hearing is continued to a future date, Mr. Snuffer would be allowed to appear on behalf of Mr. Johnson. Government responded to Mr. Wall and Mr. Snuffers statements. Mr. Lehr agreed with going forward today.

Mr. Klein returned to complete direct examination. Government moved for the admission of Exhibit 955. No objection. Court received. Government moved for the admission of Exhibit 952. No objections. Court received. Government moved for the admission of Exhibit 954. No objections. Court received. Government moved for the admission of Exhibit 953. No objections. Court received. Mr. Lehr moved for the admission of Exhibit 2088. No objections. Court received. Witness excused.

Government has no further witnesses. Mr. Wall has no witnesses. Mr. Paul has no witnesses. Mr. Shepard would like to provide testimony of himself, and will call Neldon, Glenda, Randale and LeGrand Johnson. Mr. Shepard sworn and testified. Mr. Shepard excused.

Government requested Mr. Shepard provide a proffer on what testimony he intends to obtain to the additional witnesses as how their testimony would apply to his compliance. Mr. Wall objects to his client, Neldon Johnson, to be called. Mr. Shepard would only call the witnesses to prove his innocence, not as their testimony applies to the contempt charge.

Final argument heard. Court stated the facts for the record.

Ms. Healy-Gallagher to prepare and submit the draft order by 6/10/2019 to opposed counsel/parties, objections in redline due 6/17/2019, final version due to court by 6/24/2019.

6/28/2019 Neldon Johnson to provide a draft of complete statements of records, inventory of what has been produced. 7/8/2019 final version to be submitted to court.

Glenda Johnson to go through the produced information and itemize with statement that complies with paragraphs 4 and 5 of the [676](#) order.

LeGrande and Randale Johnson to provide statements to comply with paragraph 24 of the [676](#) order.

Receiver to file by 7/1/2019 a motion award of attorneys fees.

Court made further findings as to contempt for the proposed order. No fines or incarceration are being ordered at this time.

Mr. Wall stated that his client is now satisfied with Mr. Walls representation and will not be changing counsel at this time.

Mr. Wall to submit a motion and order for appointment of additional persons to assist in complying with the courts order. The motion for withdraw is now denied.

Mr. Wall to report any time that Mr. Johnson fails to appear at scheduled appointments. Court adjourned.

Attorney for Plaintiff: Erin Healy Gallagher. Attorney for Receiver: Michael Lehr. Attorney for Defendant: Ed Wall, Denver Snuffer, Steven Paul,, Gregory Shepard. Court Reporters: Becky Janke, Kelly Hicken (Time Start: 8:25, Time End: 4:32, Room 7.300.) (asb) Modified on 5/29/2019 to correct date hearing held (asb). (Entered: 05/29/2019)

05/28/2019	686	Witness and Exhibit List for hearings held 4/26/2019, 5/3/2019 and 5/28/2019 before Judge David Nuffer. (asb) (Entered: 05/29/2019)
06/06/2019	687	RESPONSE re 664 Objections, 675 Objections, 665 Objections,, <i>re Memorandum Decision and Order Including Affiliates in Receivership Estate</i> filed by Wayne Klein. (Attachments: # 1 Exhibit Neldon Johnson Deposition Citation)(Lehr, Michael) (Entered: 06/06/2019)
06/06/2019	688	ORDER granting 651 Motion to Approve Receiver's Second Interim Fee Application. Signed by Judge David Nuffer on 6/6/19 (alt) (Entered: 06/06/2019)
06/06/2019	689	ORDER granting 661 Motion to Approve (1) Public Sale of Millard County Property, (2)

06/07/2019	690	Defendant's RESPONSE to Motion re 682 MOTION Cancellation of IAS Shares re 552 Receivers Financial Report <i>re Recommendation of Publicly-Traded Status of IAS and Liquidation Plan</i> filed by Defendant International Automated Systems. (Attachments: # 1 Exhibit Exhibit A)(Snuffer, Denver) (Entered: 06/07/2019)
06/10/2019	691	NOTICE of email submission of draft opinion and order on United States' motion for order to show cause re civil contempt by USA re 559 MOTION for Order to Show Cause (Attachments: # 1 Text of Proposed Order June 10, 2019 email from Erin Healy Gallagher with attached word-processing draft opinion and order) (Gallagher, Erin) (Entered: 06/10/2019)
06/12/2019	692	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Closing Arguments and Court's Ruling held on May 28, 2019, before Judge David Nuffer, re 626 Notice of Appeal, 472 Notice of Appeal, 445 Notice of Appeal - Interlocutory. Court Reporter/Transcriber Kelly Brown Hicken CSR, RPR, RMR, Telephone number 801-521-7238.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/3/2019. Redacted Transcript Deadline set for 7/15/2019. Release of Transcript Restriction set for 9/10/2019 (alt) Modified by removing restricted text on 9/10/2019 (rgj). (Entered: 06/12/2019)</p>
06/12/2019	694	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Motion Hearing held on May 28, 2019, before Judge David Nuffer, re 626 Notice of Appeal, 472 Notice of Appeal, 445 Notice of Appeal - Interlocutory. Court Reporter/Transcriber Rebecca Janke, CSR, RMR, Telephone number 801-521-7238.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 business days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the parties intent to redact <u>personal data identifiers</u> from the electronic transcript of the court proceeding. To redact additional information a Motion to Redact must be filed. The policy and forms are located on the court's website at www.utd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.</p> <p>Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/3/2019. Redacted Transcript Deadline set for 7/15/2019. Release of Transcript Restriction set for 9/10/2019 (alt) Modified by removing restricted text on 9/10/2019 (rgj). (Entered: 06/12/2019)</p>
06/19/2019	696	REPLY to Response to Motion re 682 MOTION Cancellation of IAS Shares re 552 Receivers Financial Report <i>re Recommendation of Publicly-Traded Status of IAS and</i>

		<i>Liquidation Plan</i> filed by Receiver Wayne Klein. (Attachments: # <u>1</u> Exhibit USPTO Documents, # <u>2</u> Exhibit Patent License Agreement)(Lehr, Michael) (Entered: 06/19/2019)
06/24/2019	<u>697</u>	NOTICE of email submission of draft opinion and order on United States' motion for order to show cause re civil contempt by USA re <u>559</u> MOTION for Order to Show Cause (Attachments: # <u>1</u> Text of Proposed Order) (Gallagher, Erin) (Entered: 06/24/2019)
06/24/2019	<u>698</u>	NOTICE OF APPEAL as to <u>636</u> Order on Motion for Miscellaneous Relief,, Memorandum Decision, filed by Black Night Enterprises, NP Johnson Family Limited Partnership, Solco I, Solstice Enterprises, Starlight Holdings, XSun Energy. Appeals to the USCA for the 10th Circuit. Filing fee \$ 505, receipt number 1088-3308724. (Paul, Steven) (Entered: 06/24/2019)
06/24/2019	<u>699</u>	Transmission of Preliminary Record to USCA re <u>698</u> Notice of Appeal. (Attachments: # <u>1</u> Appendix)(jmr) (Entered: 06/24/2019)
06/25/2019	<u>700</u>	USCA Case Number Case Appealed to Tenth Case Number 19-4089 for <u>698</u> Notice of Appeal, filed by Starlight Holdings, Solstice Enterprises, XSun Energy, Solco I, NP Johnson Family Limited Partnership, Black Night Enterprises. (jmr) (Entered: 06/25/2019)
06/25/2019	<u>701</u>	ORDER OF CONTEMPT granting <u>559</u> MOTION for Order to Show Cause. Gregory Shepard, Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson are guilty of civil contempt of the Corrected Receivership Order (Gregory Shepard purged his contempt as of 5/23/19). Gregory Shepard, Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson are jointly and severally liable for attorneys' fees and costs incurred by both USA and Receiver to enforce the CRO and for all litigation related to the Motion, including the Receiver's fees. Motions for fees and costs are due no later than 7/1/19. Signed by Judge David Nuffer on 6/25/19 (alt) (Entered: 06/25/2019)
06/25/2019	<u>702</u>	ORDER granting <u>642</u> Motion for Attorney Fees: Pacific Stock Transfer shall pay reasonable fees and costs in the total amount of \$6,160.40 to the Receiver in full by no later than 8/1/19. Signed by Judge David Nuffer on 6/25/19 (alt) (Entered: 06/25/2019)
06/25/2019	<u>703</u>	DECLARATION of LaGrand Johnson (<i>DRAFT</i>) <i>Relating to Compliance Verification of ECF 491</i> filed by LaGrand Johnson. (Paul, Steven) (Entered: 06/25/2019)
06/25/2019	<u>704</u>	DECLARATION of Randale Johnson (<i>DRAFT</i>) <i>Relating to Compliance Verification of ECF 491</i> filed by Randale Johnson. (Paul, Steven) (Entered: 06/25/2019)
06/28/2019	<u>705</u>	NOTICE of email submission with redline drafts regarding civil contempt order by USA re <u>704</u> Declaration, <u>703</u> Declaration, <u>701</u> Contempt Order,, Terminate Motions,, (Attachments: # <u>1</u> June 28, 2019 email from Erin Healy Gallagher with comments and attached word-processing redline drafts) (Gallagher, Erin) (Entered: 06/28/2019)
06/28/2019	<u>706</u>	MOTION for Extension of Time for Production of Declaration Of Neldon Johnson filed by Defendant Neldon Johnson. (Attachments: # <u>1</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Wall, Edwin) Modified on 7/1/2019: corrected entry text (alt) (Entered: 06/28/2019)
07/01/2019	<u>707</u>	MOTION for Attorney Fees and Memorandum in Support filed by Plaintiff USA. (Attachments: # <u>1</u> Declaration of Erin Healy Gallagher, # <u>2</u> Exhibit Pl. Ex. 957, Summary of US attorneys' fees and costs, # <u>3</u> Text of Proposed Order) Motions referred to Evelyn J. Furse.(Gallagher, Erin) (Entered: 07/01/2019)
07/01/2019	<u>708</u>	RESPONSE to Motion re <u>706</u> MOTION for Extension of Time for Production of Declaration Of Neldon Johnson filed by Respondent Glenda Johnson. (Snuffer, Denver) (Entered: 07/01/2019)

07/01/2019	709	MOTION for Attorney Fees and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Declaration of Michael S. Lehr, # 2 Declaration of Wayne Klein, # 3 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 07/01/2019)
07/01/2019	710	Motions No Longer Referred: 709 MOTION for Attorney Fees and Memorandum in Support , 707 MOTION for Attorney Fees and Memorandum in Support , 706 MOTION for Extension of Time for Production of Declaration Of Neldon Johnson (nas) (Entered: 07/01/2019)
07/02/2019	711	MANDATE of USCA as to 626 Notice of Appeal filed by Neldon Johnson. According to the USCA the appeal of the USDC for the Dist of UT is dismissed. (jmr) (Entered: 07/02/2019)
07/02/2019	712	MOTION to Approve Order of (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (40-Acre Millard County Property HD-4654) filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Sale Order, # 2 Exhibit B - Appraisal, # 3 Exhibit C - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 07/02/2019)
07/02/2019	713	MOTION to Approve Order of (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (80-Acre Millard County Property HD-4657) filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Sale Order, # 2 Exhibit B - Appraisal, # 3 Exhibit C - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 07/02/2019)
07/05/2019	714	DECLARATION of Glenda Johnson <i>dated July 8, 2019, in Compliance with ECF 491 and ECF 636</i> filed by Glenda Johnson. (Paul, Steven) (Entered: 07/05/2019)
07/05/2019	715	DECLARATION of LaGrand Johnson <i>dated July 8, 2019, in Compliance with ECF 491 and ECF 636</i> filed by LaGrand Johnson. (Paul, Steven) (Entered: 07/05/2019)
07/05/2019	716	DECLARATION of Randale Johnson <i>dated July 8, 2019, in Compliance with ECF 491 and ECF 636</i> filed by Randale Johnson. (Paul, Steven) (Entered: 07/05/2019)
07/05/2019	717	RESPONSE to Motion re 706 MOTION for Extension of Time for Production of Declaration Of Neldon Johnson filed by Plaintiff USA. (Attachments: # 1 Exhibit Pl. Ex. 958, email correspondence from E. Wall to E. Healy Gallagher et al.)(Gallagher, Erin) (Entered: 07/05/2019)
07/08/2019	718	MEMORANDUM DECISION AND ORDER overruling 664 , 665 , and 675 Objections re inclusion of affiliates and subsidiaries. Signed by Judge David Nuffer on 7/8/19 (alt) (Entered: 07/08/2019)
07/08/2019	719	ORDER granting 682 Motion for Cancellation of International Automated Systems' Shares: all equity in IAS shares is cancelled - IAS shares have no value, including any common shares, preferred shares, or warrants in IAS shares. Signed by Judge David Nuffer on 7/8/19 (alt) (Entered: 07/08/2019)
07/12/2019	720	NOTICE of Intent to Respond Regarding Declarations of Glenda Johnson, LaGrand Johnson, and Randale Johnson by Wayne Klein re 716 Declaration, 715 Declaration, 714 Declaration (Lehr, Michael) (Entered: 07/12/2019)
07/12/2019	721	Please be advised the Record is complete for purposes of appeal for USCA case number re 698 Notice of Appeal (alt) (Entered: 07/12/2019)
07/18/2019	722	ORDER granting 712 Motion to Approve Sale of 40-Acre Millard County Property HD-4654. Signed by Magistrate Judge Evelyn J. Furse on 7/18/19 (alt) (Entered: 07/18/2019)

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07/18/2019	723	ORDER granting 713 Motion to Approve Sale of 80-Acre Millard County Property HD-4657. Signed by Magistrate Judge Evelyn J. Furse on 7/18/19 (alt) (Entered: 07/18/2019)
07/18/2019	724	STATUS REPORT <i>Receiver's Third Quarterly Status Report</i> by Wayne Klein. (Lehr, Michael) (Entered: 07/18/2019)
07/19/2019	725	ORDER granting 706 Motion for Extension of Time for Production of Neldon Johnson's Declarations. Signed by Judge David Nuffer on 7/19/19 (alt) (Entered: 07/19/2019)
07/19/2019	726	CERTIFICATE OF SERVICE by Neldon Johnson <i>Draft Declaration of Neldon Johnson</i> (Wall, Edwin) (Entered: 07/19/2019)
07/22/2019	727	REQUEST to Submit for Decision re 709 MOTION for Attorney Fees and Memorandum in Support , 707 MOTION for Attorney Fees and Memorandum in Support filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 07/22/2019)
07/22/2019	728	DOCUMENTS LODGED consisting of 2019 July 5 Email from Steven Paul re: Compliance Declarations. Note: attached document lodged for reference purposes only; no response required unless specifically ordered by the court. (asb) (Entered: 07/22/2019)
07/23/2019	729	MOTION for Leave to File all exhibits and red-line responses re: N. Johnson's draft declaration Under Seal and without redacted versions filed by Defendant Neldon Johnson. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Wall, Edwin) Modified on 7/25/2019: corrected motion relief and entry text (alt) (Entered: 07/23/2019)
07/25/2019	730	ORDER granting 729 Motion for Leave For All Parties to File all exhibits and red-line responses re: N. Johnson's draft declaration Under Seal and without redacted versions. For clarification, this motion does not pertain to the filing of the final signed Declaration due on 8/2/19. Signed by Magistrate Judge Evelyn J. Furse on 7/25/19 (alt) (Entered: 07/25/2019)
07/25/2019	731	ORDER granting 707 Motion for Attorney Fees in re Civil Contempt: R. Gregory Shepard, Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson are jointly and severally liable to the USA and shall cause a certified check to be delivered to counsel for the total amount of \$25,146.85 by no later than 8/15/19. Signed by Judge David Nuffer on 7/25/19 (alt) Modified on 7/25/2019: corrected entry text (alt) (Entered: 07/25/2019)
07/25/2019	732	ORDER granting 709 Motion for Attorney Fees in re Civil Contempt: R. Gregory Shepard, Neldon Johnson, Glenda Johnson, LaGrand Johnson, and Randale Johnson are jointly and severally liable to the Receiver and shall cause a certified check to be delivered to counsel for the total amount of 31,563.52 by no later than 8/15/19. Signed by Judge David Nuffer on 7/25/19 (alt) (Entered: 07/25/2019)
07/26/2019	733	NOTICE of email submission with redline draft regarding civil contempt order by USA re 725 Order on Motion for Extension of Time, 701 Contempt Order,, Terminate Motions,, (Attachments: # 1 July 26, 2019 email from Erin Healy Gallagher with attached word-processing redline of draft declaration of Neldon Johnson) (Gallagher, Erin) (Entered: 07/26/2019)
07/30/2019	734	ORDER of USCA 10th Circuit as to 626 Notice of Appeal: petition for rehearing is denied (alt) (Entered: 07/31/2019)
07/31/2019	735	MOTION to Approve Order of (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (<i>120-Acre Millard County Property HD-4609</i>) filed by Receiver Wayne Klein. (Attachments: # 1

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		Exhibit A - Sale Order, # 2 Exhibit B - Appraisal, # 3 Exhibit C - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 07/31/2019)
07/31/2019	736	MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Lehr, Michael) (Entered: 07/31/2019)
08/01/2019	737	Motions No Longer Referred: 736 MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) (nas) (Entered: 08/01/2019)
08/02/2019	738	DECLARATION of Neldon Johnson filed by Neldon Johnson. (Attachments: # 1 Exhibit Exhibit A - Amended License Agreements, # 2 Exhibit Exhibit A - Assets at Delta Utah Facility, # 3 Exhibit Exhibit A - Assets at Delta Utah Facility 1 , # 4 Exhibit Exhibit B (01) - Real Property in the Name of Glenda Johnson, # 5 Exhibit Exhibit B (01) - Real Property in the Name of Glenda Johnson 1 , # 6 Exhibit Exhibit B (02) Real Property Owned by Defendants.Entites, # 7 Exhibit Exhibit B (02) Real Property Owned by Defendants.Entites 1 , # 8 Exhibit Exhibit C (01) - List of Patents, # 9 Exhibit Exhibit C (01) - List of Patents, # 10 Exhibit Exhibit C (01) - List of Patents, # 11 Exhibit Exhibit C (02) List of Patents - Located in Boxes 1 , # 12 Exhibit Exhibit D - Patents assigned by Black Night Enterprises (1), # 13 Exhibit Exhibit D - Patents assigned by Black Night Enterprises (1) 1 , # 14 Exhibit Exhibit E - Patents assigned by N.P. Johnson Family Limited Partnership (1), # 15 Exhibit Exhibit E - Patents assigned by N.P. Johnson Family Limited Partnership (1), # 16 Exhibit Exhibit F - Bank Accounts owned by Receiver Defendants (1), # 17 Exhibit Exhibit F - Bank Accounts owned by Receiver Defendants (1) 1 , # 18 Exhibit Exhibit G- Shares as per IAS Minutes (1), # 19 Exhibit Exhibit G- Shares as per IAS Minutes (1) 1 , # 20 Exhibit Exhibit H 01 - Final Letter to court, # 21 Exhibit Exhibit H 02 - Company Information 10-31-18, # 22 Exhibit Exhibit H 03 - IAUS- TransJrl, # 23 Exhibit Exhibit H 04 - Shareholder List Active ONLY Holders, # 24 Exhibit Exhibit H 05 - Shareholder List Active-Inactive Holders, # 25 Exhibit Exhibit I - Bank Account Transactions over \$1000 8-2-19 REDACTED, # 26 Exhibit J, # 27 Exhibit Exhibit K - Inventory of Docs at NSDP, # 28 Exhibit Exhibit L - Boxes and Documents at Nelson Snuffer Dahle)(Wall, Edwin) (Entered: 08/02/2019)
08/02/2019	739	MOTION for Leave to File Sealed Document filed by Defendant Neldon Johnson. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Wall, Edwin) (Entered: 08/02/2019)
08/02/2019	740	MOTION to Approve (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (<i>320-Acre Millard County Property HD-4612</i>) filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Sale Order, # 2 Exhibit B - Appraisal, # 3 Exhibit C - Auction Procedures) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 08/02/2019)
08/05/2019	741	DOCKET TEXT ORDER GRANTING 739 Motion for Leave to File Sealed Document. Signed by Magistrate Judge Evelyn J. Furse on 8/5/2019. No attached document. (nas) (Entered: 08/05/2019)
08/05/2019	742	**SEALED DOCUMENT** re 738 Declaration,,,,,, filed by Defendant Neldon Johnson NOTE: Filer is instructed to serve the <u>sealed document</u> on all other parties.. (Wall, Edwin) (Entered: 08/05/2019)
08/05/2019	743	NOTICE of Sale Results HD-4658-1 by Wayne Klein re 689 Order on Motion for Miscellaneous Relief (Attachments: # 1 Affidavit Publication Affidavit) (Lehr, Michael) (Entered: 08/05/2019)

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08/05/2019	744	NOTICE of Sale Results, San Bernardino by Wayne Klein re 668 Order on Motion for Miscellaneous Relief (Attachments: # 1 Affidavit Publication Affidavit) (Lehr, Michael) (Entered: 08/05/2019)
08/08/2019	745	MEMORANDUM in Opposition re 736 MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) filed by Respondents LaGrand Johnson, Randale Johnson. (Attachments: # 1 Exhibit Table Comparing Lawsuits, # 2 Exhibit List of Transactions involving Randale and LaGrand Johnson, # 3 Exhibit Court Information Regarding Judge Nuffer's Move to St. George)(Paul, Steven) (Entered: 08/08/2019)
08/15/2019	746	MOTION To Approve Third Interim Fee Application for Receiver and Receiver's Professionals for Services Rendered from April 1, 2019 Through June 30, 2019 filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit A - Time Summary, # 2 Exhibit B - Time Detail, # 3 Exhibit C - Expense Reimbursement, # 4 Exhibit D - Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 08/15/2019)
08/15/2019	747	RESPONSE re 724 Status Report, filed by Nelson Snuffer Dahle Poulsen PC. (Attachments: # 1 Exhibit 6-19-02 ltr to J McGrath, # 2 Exhibit McGrath email 10-12-02, # 3 Exhibit Alpine Securities 2012 1099, # 4 Exhibit 3-15-19 ltr to W Klein, # 5 Exhibit McGrath email 10-23-02, # 6 Exhibit Pacific Stock Transfer IAS Shareholder & Certificate Detail, # 7 Exhibit 10-10-03 ltr to Smith Barney, # 8 Exhibit IAS Certificate No 5803) Attorney Denver C. Snuffer, Jr added to party Nelson Snuffer Dahle Poulsen PC(pty:ip)(Snuffer, Denver) (Entered: 08/15/2019)
08/16/2019	748	Motions No Longer Referred: 746 MOTION To Approve Third Interim Fee Application for Receiver and Receiver's Professionals for Services Rendered from April 1, 2019 Through June 30, 2019 (nas) (Entered: 08/16/2019)
08/16/2019	749	MOTION for Leave to File Excess Pages and Memorandum in Support filed by Plaintiff USA. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse. (Gallagher, Erin) (Entered: 08/16/2019)
08/19/2019	750	ORDER granting 749 the United States' Motion to Exceed Page Limit for its Forthcoming Motion for Additional Sanctions Due to Continued Contempt: The United States may file a motion for additional sanctions due to continued contempt that is 16 total pages, exclusive of the "face sheet, table of contents, table of authorities, signature block, certificate of services, and exhibits." Signed by Magistrate Judge Evelyn J. Furse on 8/19/19. (dla) (Entered: 08/19/2019)
08/19/2019	751	ORDER Approving (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (2) Public Auction Procedures 740 Motion (320-Acre Millard County Property HD-4612). Signed by Magistrate Judge Evelyn J. Furse on 8/19/19. (dla) (Entered: 08/19/2019)
08/19/2019	752	ORDER Approving (1) Public Sale of Property Free and Clear of Interests, (2) Method and Form of Publication Notice, and (2) Public Auction Procedures 735 . (120-Acre Millard County Property HD-4609). Signed by Magistrate Judge Evelyn J. Furse on 8/19/19. (dla) (Entered: 08/19/2019)
08/21/2019	753	REPLY to Response to Motion re 736 MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 08/21/2019)
08/21/2019	754	MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>) filed by Plaintiff USA. Motions referred to Evelyn J. Furse. (Gallagher, Erin) (Entered: 08/21/2019)
08/21/2019	755	Motions No Longer Referred: 754 MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>) (nas) (Entered: 08/21/2019)

08/21/2019	756	REQUEST to Submit for Decision re 756 MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 08/21/2019)
08/30/2019	757	MOTION for Summary Judgment and Memorandum in Support of <i>Motion for Order Directing Turnover and Transfer of Real Properties Titled in the Name of Glenda Johnson and Funds in Accounts Controlled by Glenda Johson</i> filed by Receiver Wayne Klein. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11)(Lehr, Michael) (Entered: 08/30/2019)
08/30/2019	758	APPENDIX to 757 MOTION for Summary Judgment and Memorandum in Support of <i>Motion for Order Directing Turnover and Transfer of Real Properties Titled in the Name of Glenda Johnson and Funds in Accounts Controlled by Glenda Johson</i> filed by Receiver Wayne Klein . (Lehr, Michael) (Entered: 08/30/2019)
09/03/2019	759	STIPULATION re 754 MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>) for <i>Extension of Time to Respond until September II, 2019</i> by LaGrand Johnson, Randale Johnson. (Paul, Steven) (Entered: 09/03/2019)
09/03/2019	760	RESPONSE to Motion re 754 MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>) filed by Defendant Neldon Johnson. (Wall, Edwin) (Entered: 09/03/2019)
09/05/2019	761	MOTION Reappointment of Receiver and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 09/05/2019)
09/09/2019	762	Motions No Longer Referred: 761 MOTION Reappointment of Receiver and Memorandum in Support (nas) (Entered: 09/09/2019)
09/10/2019	763	Second MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) and Memorandum in Support filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 09/10/2019)
09/11/2019	764	Motions No Longer Referred: 763 Second MOTION Transfer Related Cases Pursuant to DUCivR 83-2(g) and Memorandum in Support (nas) (Entered: 09/11/2019)
09/11/2019	765	MEMORANDUM in Opposition re 754 MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>) filed by Respondents Glenda Johnson, LaGrand Johnson, Randale Johnson. (Paul, Steven) (Entered: 09/11/2019)
09/12/2019	766	MOTION for Approval to Consummate Settlements or, in the Alternative, to Authorize Receiver to Approve Settlements without Court Review filed by Receiver Wayne Klein. (Attachments: # 1 Text of Proposed Order) Motions referred to Evelyn J. Furse.(Lehr, Michael) (Entered: 09/12/2019)
09/13/2019	767	Motions No Longer Referred: 766 MOTION for Approval to Consummate Settlements or, in the Alternative, to Authorize Receiver to Approve Settlements without Court Review (nas) (Entered: 09/13/2019)
09/17/2019	768	STIPULATION re 754 MOTION for Sanctions and Memorandum in Support (<i>additional sanctions due to continued contempt</i>), 760 Response to Motion <i>extending time to reply by USA</i> . (Gallagher, Erin) (Entered: 09/17/2019)
09/17/2019	769	REQUEST to Submit for Decision re 746 MOTION To Approve Third Interim Fee Application for Receiver and Receiver's Professionals for Services Rendered from April 1, 2019 Through June 30, 2019 filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 09/17/2019)

09/20/2019	770	REQUEST to Submit for Decision re 761 MOTION Reappointment of Receiver and Memorandum in Support filed by Receiver Wayne Klein. (Lehr, Michael) (Entered: 09/20/2019)
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IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. RAPOWER-3, LLC; INTERNATIONAL AUTOMATED SYSTEMS, INC.; LTB1, LLC; R. GREGORY SHEPARD; NELDON JOHNSON; and ROGER FREEBORN, Defendants.	CORRECTED RECEIVERSHIP ORDER Civil No. 2:15-cv-00828-DN District Judge David Nuffer
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ORDER

In accordance with the Memorandum Decision and Order Freezing Assets and to Appoint a Receiver (“Memorandum Decision”),¹ and the Findings of Fact and Conclusions of Law (“FFCL”),² and for good cause appearing,

IT IS HEREBY ORDERED that:

1. Defendants’ Objection to Plaintiff’s Proposed Receivership Order³ is
OVERRULED.

2. This Court takes exclusive jurisdiction and possession of all assets, of whatever kind and wherever situated, of Defendants RaPower-3 LLC, Neldon Johnson, International Automated Systems Inc. (“IAS”), LTB1 LLC, and R. Gregory Shepard (collectively, the “Receivership Defendants”), together with assets proven to be proceeds of activities of Receivership Defendants in possession of any and all subsidiaries and affiliated entities, including but not limited to:

- a. SOLCO I, LLC;
- b. XSun Energy, LLC;
- c. Cobblestone Centre, LC;
- d. DCL-16A, Inc.;
- e. DCL16BLT, Inc.;
- f. LTB O&M, LLC;
- g. N.P. Johnson Family Limited Partnership;
- h. Shepard Energy;

¹ Docket no. 444, filed August 22, 2018.

² Docket no. 467, filed October 4, 2018.

³ Docket no. 461, filed September 28, 2018.

- i. Shepard Global, Inc.;
- j. Solstice Enterprises;
- k. Black Night Enterprises; and
- l. Starlight Enterprises.

3. Until otherwise ordered, Wayne Klein is appointed to serve without bond as receiver (the “Receiver”) for the estate of the Receivership Defendants and any subsidiaries or affiliated entities, and he has standing to prosecute claims under the Uniform Voidable Transactions Act.⁴

A. Asset freeze.

4. The asset freeze included in the Memorandum Decision (“Asset Freeze”) is hereby continued, which states:

Except as otherwise provided herein, all assets of the Receivership Defendants are frozen until further order of this Court (“Receivership Property”). Accordingly, all persons and entities with direct or indirect control over any Receivership Property, other than the Receiver, are hereby restrained and enjoined from directly or indirectly transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating, or otherwise disposing of or withdrawing such Receivership Property. This freeze shall include, but not be limited to, Receivership Property that is on deposit with financial institutions such as banks, brokerage firms and mutual funds, shares of stock, and any patents or other intangible property.⁵

5. The Asset Freeze is extended to include the subsidiaries and affiliated entities of the Receivership Defendants for the purpose of permitting the Receiver to investigate the assets, property, property rights, and interests of the subsidiaries and affiliated entities (“Extended Asset Freeze”). The Receiver is authorized, directed, and empowered to investigate all subsidiaries and

⁴ UTAH CODE § 25-6-101, et seq.

⁵ Memorandum Decision, *supra* note 1, ¶ 3.

affiliated entities of the Receivership Defendants to determine whether the assets, property, property rights, or interests of the subsidiaries and affiliated entities derive from the abusive solar energy scheme at issue in this case⁶ or from an unrelated business activity. Once the Receiver completes his investigation of the subsidiaries and affiliated entities, he shall make a recommendation to this Court about whether the Receivership should extend to any of the investigated subsidiaries or affiliated entities or specific property of those entities. The subsidiaries and affiliated entities which the Receiver is directed to investigate include, but are not limited, to the entities listed in Paragraph 2 of this Order.

6. The Extended Asset Freeze shall be in force for a period of 120 days. Before the expiration of the Extended Asset Freeze in 120 days, the Receiver shall file his report and recommendation with this Court. The report and recommendation shall include the Receiver's recommendation as to whether the receivership should be extended to any of the investigated subsidiaries and affiliated entities or specific property of those entities. If the Receiver is unable to complete his investigation before the expiration of 120 days, the Receiver shall file a motion with this Court to extend the Extended Asset Freeze for the period of time needed to complete his recommendation. Nothing in the Receiver's report and recommendation shall prohibit or estop the Receiver from subsequently recovering assets, property, property interests, or rights from any subsidiary or affiliated entity by other means (e.g., a suit for a voidable transaction or fraudulent conveyance).

7. During the Extended Asset Freeze, the Receiver may communicate and consult with counsel for the United States regarding his investigation and may request counsel's opinion

⁶ See FFCL, *supra* note 2; Memorandum Decision, *supra* note 1.

on whether the subsidiaries and affiliated entities or specific property of those entities should be included in the receivership estate.

8. The Asset Freeze extends to any subsidiaries or affiliated entities of the Receivership Defendants, their agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile service, or otherwise, and each of them shall hold and retain within their control and otherwise prevent any withdrawal, transfer, pledge, encumbrance, assignment, dissipation, concealment, or other disposal of assets, funds, or other properties (including money, real or personal property, securities, choses in action, or property of any kind whatsoever) of the Receivership Defendants. This applies to assets held by Receivership Defendants or under their control, at any time after inception of this action, whether such assets were or are held in the name of any Receivership Defendant or for their direct or indirect beneficial interest wherever situated. The Receivership Defendants shall direct each of the financial or brokerage institutions, debtors, and bailees, or any other person or entity holding such assets, funds, or other properties of any Receivership Defendant to hold or retain within their control and prohibit the withdrawal, removal, transfer, or other disposal of any such assets, funds, or other properties.

B. Termination of authority and removal of officers and directors.

9. The directors, officers, managers, employees, trustees, investment advisors, accountants, attorneys, and other agents of RaPower-3 LLC, IAS, and LTB1 LLC (collectively, the “Entity Receivership Defendants”)⁷ are hereby dismissed, and the powers of any general

⁷ If the Receiver determines after his investigation that the Receivership should be extended to include any of the subsidiaries or affiliated entities, and the Court agrees, then this provision (and all provisions involving the Entity Receivership Defendants) shall extend to the additional subsidiaries and affiliated entities that are subsequently made part of the receivership. This shall be deemed to occur on the date the Court agrees with the Receiver’s recommendation even if an amended order has not yet been issued.

partners, directors, or managers are hereby suspended. Such persons shall have no authority with respect to the Entity Receivership Defendants' operations or assets, except to the extent as may hereafter be expressly granted by the Receiver.

10. No person holding or claiming any position of any sort with any of the Receivership Defendants shall possess any authority to act by or on behalf of any of the Receivership Defendants. Neither Johnson nor Shepard, nor anyone acting on their behalf, shall make any court filings or submissions to other government entities on behalf of the Entity Receivership Defendants other than in this case or in the pending appeal of an order in this case. Payment for any attorneys' fees, expenses, or other costs of such court filings or submissions shall be made from property that is not Receivership Property ("Non-Receivership Property"). Any filing or submission by any Receivership Defendant must contain a statement, made under penalty of perjury, identifying the source of the funds for the filing or submission in sufficient detail to show that the funds are not Receivership Property or otherwise derived from the solar energy scheme.

C. General powers and duties of Receiver; control over entities.

11. The Receiver shall have all powers, authorities, rights, and privileges heretofore possessed by the owners, members, shareholders, officers, directors, managers, and general and limited partners of the Entity Receivership Defendants under applicable state and federal law, by the governing charters, bylaws, articles, or agreements in addition to all powers and authority of a receiver at equity, and all powers conferred upon a receiver by the provisions of 28 U.S.C. §§ 754, 959, 1692, and Fed. R. Civ. P. 66, and this Court. The Receiver is authorized to sue and be sued as provided in 28 U.S.C. §§ 754, 959, 1692, and Fed. R. Civ. P. 66, and by this Court.

12. The Receiver shall assume and control the operation of the Entity Receivership Defendants and shall pursue and preserve all their claims.

13. Subject to specific provisions in this Order, the Receiver shall have the following general powers and duties:

a. To use reasonable efforts to determine the nature, location and value of all property interests of each of the Receivership Defendants, including Johnson and Shepard. These property interests include, but are not limited to: monies, accounts, trusts, funds, digital currencies, securities, credits, stocks, bonds, effects, goods, chattels, intangible property (including patents and other intellectual property), real property, lands, premises, leases, claims, rights, ownership interests in domestic or foreign entities, and other assets, together with rents, profits, dividends, receivables, interest, or other income attributable thereto, of whatever kind, that the Receivership Defendants own, possess, have a beneficial interest in, or control directly or indirectly (“Receivership Property”).

b. To take custody, control, and possession of all Receivership Property and records relevant thereto from the Receivership Defendants; to sue for and collect, recover, receive, and take into possession from third parties all Receivership Property and records relevant thereto.

c. To manage, control, operate, and maintain the Receivership Property and hold in his possession, custody, and control all Receivership Property, pending further order of this Court.

d. Except as otherwise provided in this Order, to use Receivership Property for the benefit of the receivership, making payments and disbursements and incurring expenses as may be necessary or advisable in the ordinary course of business in discharging his duties as Receiver.

e. To take any action which, prior to the entry of this Order, could have been taken by the officers, directors, partners, managers, members, shareholders, trustees, and agents of the Entity Receivership Defendants.

f. To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, forensic experts, securities traders, registered representatives, financial or business advisers, liquidating agents, real estate agents, brokers, traders, or auctioneers.

g. To take such action as necessary and appropriate for the preservation of Receivership Property or to prevent the dissipation or concealment of Receivership Property.

h. To open all mail directed to or received by or at the offices or post office boxes of the Receivership Defendants, and to inspect all mail opened prior to the entry of this Order, to determine whether items or information therein fall within the mandates of this Order; provided, however, that mail originating with counsel for Receivership Defendants may only be opened after a court order.

i. To assert, prosecute, and negotiate any claim under any insurance policy held by or issued on behalf of the Receivership Defendants or their officers, directors, agents, employees, or trustees, and to take any and all appropriate steps in connection with such policies.

j. To issue subpoenas and letters rogatory to compel testimony of persons or production of records, consistent with the Federal Rules of Civil Procedures and applicable Local Rules, except for the provisions of [Fed. R. Civ. P. 26\(d\)\(1\)](#), concerning any subject matter within the powers and duties granted by this Order.

k. To seek information from governments and entities outside the United States pursuant to mutual legal assistance treaties or other agreements to which the United States or an instrumentality of the United States is a party.

l. To bring legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver. In determining which legal actions are likely to be cost effective, the Receiver may consult with counsel for the United States in making decisions on which actions to pursue.

m. To pursue, resist, defend, and settle all suits, actions, claims, and demands which may now be pending or which may be brought by or asserted against the receivership estate. In determining which suits, actions, claims and demands to pursue, resist, defend, or settle, the Receiver may consult with counsel for the United States in making decisions on such suits, actions, claims, and demands.

n. To assume all legal privileges, including attorney-client and accountant-client privileges, belonging to the Receivership Defendant entities, and determine in his discretion whether and when to assert or, on motion, to waive such privileges.

o. To compromise accounts receivable and other contractual claims of the Receivership Defendants and to abandon non-real-estate Receivership Property deemed by the Receiver to be of inconsequential value or benefit to the receivership estate on terms and in the manner the Receiver deems necessary or appropriate in the Receiver's business judgment.

p. To seek the assistance of the U.S. Marshals Service or from any other federal, state, county, or civil law enforcement offices or constables of any jurisdiction.

q. To alert the appropriate federal, state, local, or other law enforcement agency if the Receiver discovers a violation, or suspected violation, of federal, state, local, or other law in the course of his duties in administering the receivership, and to share such information and documents as may be necessary regarding the violation with that agency.

r. To take such other action as may be approved by this Court.

D. Receiver's control over assets, books, records, and accounts.

14. The Receivership Defendants, as well as their past and present officers, directors, agents, managers, servants, employees, attorneys, accountants, general and limited partners, trustees, and any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order by personal service, electronic transmission, or otherwise, are directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, or relating to, the Receivership Property. The Receiver is authorized to request a modification of this provision or the previously issued Preservation Order.⁸

15. The Receiver is authorized to take immediate possession of all assets, bank accounts or other financial accounts, contents of safe deposit boxes, books, records, and all other documents or instruments—whether in paper or electronic form—relating to the Receivership Defendants; provided, however, that Receivership Defendants may retain copies at their own expense.

16. All persons and entities having control, custody, or possession of any Receivership Property or records of Receivership Defendants are hereby ordered to turn such

⁸ Docket no. 419, filed June 27, 2018.

property over to the Receiver; provided, however, that Receivership Defendants may retain copies at their own expense.

17. The Receivership Defendants, as well as their agents, servants, employees, attorneys, any persons acting for or on behalf of the Receivership Defendants, and any persons receiving notice of this Order by personal service, electronic transmission, or otherwise, having possession of the property, business, books, records, accounts, or assets of the Receivership Defendants, are hereby ordered to deliver the same to the Receiver or his agents or employees.

E. Access to and control over real and personal property.

18. The Receiver is authorized, as the Receiver deems necessary or appropriate in the Receiver's business judgment, to take immediate possession of all personal property of the Receivership Defendants, wherever located, including but not limited to: electronically-stored information, computers, laptops, hard drives, external storage drives, and any other such memory, media or electronic storage devices, books, papers, data processing records, evidence of indebtedness, bank records and accounts, savings records and accounts, brokerage records and accounts, certificates of deposit, stocks, bonds, debentures, and other securities and investments, contracts, mortgages, furniture, office supplies, solar thermal lenses, machinery and equipment, tools, fixtures, metal, plastic, and other building materials.

19. The Receiver is authorized to take immediate possession of all vehicles and aircraft of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures, including the following specific aircrafts:

- a. Cessna, Model 172M, a 1973 fixed wing single-engine with serial number 17261885 and tail number 12213, believed to be located at the Spanish Fork-Springville airport in Utah County, Utah; and

b. Mooney, Model M20C, a 1969 fixed wing single-engine with serial number 700031 and tail number 9400V, believed to be located at the Spanish Fork-Springville airport in Utah County, Utah.

20. The Receiver is authorized to take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures. The Receiver is authorized to file notices or other documents with the appropriate authorities to effectuate notice of its possession of the real property. The Receiver is authorized to take immediate possession of real property in which Receivership Defendants have a record interest, and to file a motion to take possession (a “Possession Motion”) of real property in which Receivership Defendants have a beneficial interest even if titled in the name of another, such as a spouse or an affiliated entity, such as a family limited partnership. If the Receiver later determines the real property was incorrectly included in the receivership, or that a notice was incorrectly filed, the Receiver shall take steps to release possession of such real property to its owners. Specific real property for which the Receiver shall take immediate possession, or file a notice of intent to file a Possession Motion, includes the parcels described as follows:

a. Millard County, Utah assessor’s parcel number 4805, with the following legal description:

THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 17 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

b. Millard County, Utah assessor’s parcel number 4806-A, with the following legal description:

ALL OF SECTION 28, TOWNSHIP 17 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

c. Millard County, Utah assessor's parcel number 4806-B, with the following legal description:

THE EAST ONE-HALF OF SECTION 29, TOWNSHIP 17 SOUTH, RANGE 9 WEST, SALT LAKE BASE AND MERIDIAN.

d. Millard County, Utah assessor's parcel number DO-3151, with the following legal description:

BEGINNING WEST 997.12 FEET FROM THE NORTHEAST CORNER OF LOT 1, SECTION 4, TOWNSHIP 16 SOUTH, RANGE 7 WEST, SALT LAKE BASE AND MERIDIAN; THENCE WEST 332.38 FEET, MORE OR LESS, TO THE WEST BOUNDARY OF SAID LOT 1; THENCE SOUTH 1315.8 FEET; THENCE EAST 332.38 FEET; THENCE NORTH 1315.8 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM (THE SOUTH 2.4 FEET) ALL RIGHTS OF WAY, STOCK TRAILS, DITCHES AND CANALS, GRAVEL PITS AND GRAVEL BEDS.

e. Millard County, Utah assessor's parcel number DO-3276-1-1, commonly known as 4350 W. 5000 N., Delta, UT 84624, with the following legal description:

Beginning 960 feet East of the Southwest corner of the Southwest quarter of the Northeast quarter of Section 17, Township 16 South, Range 7 West, Salt Lake Base and Meridian, thence West 146 feet; thence North 911 Feet; thence East 368.991 feet; thence South 11 feet; thence South 16° 46' West 773 feet; thence South 159.862 feet more or less to the point of beginning.

f. Millard County, Utah assessor's parcel number DO-3396, with the following legal description:

Beginning at the Southeast corner of the Southwest Quarter of the Northeast Quarter of Section 32, Township 16 South, Range 7 West, Salt Lake Base and Meridian; Thence West 600 feet along the South boundary of the said Southwest Quarter of the Northeast Quarter of Section 32; Thence North 29° 23.3' East 998.5 feet; Thence East 110.0 feet to the East boundary of the said Southwest Quarter of the Northeast Quarter of Section 32, Thence South 210.0 feet, more or less to the Northeast corner of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter of said Section 32; Thence East 14.0 feet more or less, Thence South 135.0 feet; Thence East 170.0 feet; Thence North 135.0 feet; Thence East 276.0 feet; Thence South 135.0 feet; Thence West 100.0 feet; Thence South 165.0 feet; Thence East 170 feet; Thence North 300.0 feet; Thence East 130 feet; Thence South 660.0 feet to the Southeast corner of the

g. Millard County, Utah assessor's parcel number DO-3396-5, with the

following legal description:

Beginning at a point 130 feet West and 135 feet South of the Northeast Corner of the Southwest 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 32, Township 16 South, Range 7 West, Salt Lake base and meridian, Thence South 165 feet, Thence West 170 feet, Thence North 165 feet, Thence East 170 feet to the point of beginning.

h. Millard County, Utah assessor's parcel number DO-3396-6, with the

following legal description:

BEGINNING 130 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 16 SOUTH, RANGE 7 WEST, SALT LAKE BASE AND MERIDIAN, THENCE SOUTH 135 FEET; THENCE WEST 70 FEET; THENCE NORTH 135 FEET; THENCE EAST 70 FEET TO THE POINT OF BEGINNING.

i. Millard County, Utah assessor's parcel number DO-3396-10, with the

following legal description:

Beginning 476 feet West of the Northeast corner of the Southwest Quarter of the Southeast Quarter of the Northeast Quarter of Section 32, Township 16 South, Range 7 West, Salt Lake Base and Meridian, Thence South 135 feet; Thence West 170 feet; Thence North 135 feet; Thence East 170 feet to the point of beginning.

j. Millard County, Utah assessor's parcel number DO-4568-1, commonly

known as 2730 W. 4000 S., Oasis, UT 84624, with the following legal description:

COMMENCING AT A POINT LOCATED NORTH 89°33'23.5" EAST 1080.19 FEET ALONG THE QUARTER SECTION LINE FROM THE WEST QUARTER CORNER OF SECTION 34, TOWNSHIP 17 SOUTH, RANGE 7 WEST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 00°41'09.5" EAST 77.73 FEET; THENCE NORTH 36°08'16" EAST 161.44 FEET; THENCE NORTH 69°36'58" EAST 49.80 FEET; THENCE NORTH 34°49'13.5" EAST 67.18 FEET TO AN EXISTING FENCE LINE; THENCE NORTH 65°24'28" EAST 195.30 FEET ALONG AN EXISTING FENCE LINE; THENCE NORTH 67°05'16" EAST 90.54 FEET ALONG AN EXISTING FENCE LINE; THENCE SOUTH 30°31'07" EAST 100.20 FEET; THENCE SOUTH 25°26'12" WEST 234.94 FEET TO THE NORTH SHOULDER OF AN EXISTING COUNTY ROAD; THENCE NORTH 77°51'02" WEST 12.17 FEET ALONG SAID NORTH SHOULDER OF THE EXISTING COUNTY ROAD; THENCE ALONG A CURVE TO THE LEFT 22.87 FEET WITH A RADIUS OF 43.026 FEET AND A CHORD BEARING AND DISTANCE OF SOUTH 86°55'28.5" WEST 22.60 FEET ALONG SAID NORTH SHOULDER OF THE EXISTING COUNTY ROAD; THENCE SOUTH 71°41'59" WEST 41.15 FEET ALONG SAID NORTH SHOULDER OF THE EXISTING COUNTY ROAD TO THE WEST RIGHT-OF-WAY LINE OF THE UNION PACIFIC RAILROAD; THENCE SOUTH 25°26'12" WEST 94.045 FEET ALONG SAID UNION PACIFIC RIGHT-OF-WAY TO QUARTER SECTION LINE; THENCE SOUTH 25°26'12" WEST 362.64 FEET ALONG SAID UNION PACIFIC RAILROAD RIGHT-OF-WAY; THENCE ALONG A CURVE TO THE LEFT 351.22 FEET WITH A RADIUS OF 706.78 FEET AND A CHORD BEARING AND DISTANCE OF NORTH 20°37'37" WEST 347.618 FEET TO THE QUARTER SECTION LINE AND THE POINT OF BEGINNING.

EXCEPTING: ANY PORTION WITHIN THE BOUNDARY OF THE COUNTY ROAD RIGHT-OF-WAY AND THE UNION PACIFIC RAILROAD RIGHT-OF-WAY.

****** RESERVING UNTO THE GRANTOR ANY AND ALL WATER RIGHTS ******

k. Millard County, Utah assessor's parcel number DO-SS-136 & 137, with the following legal description:

LOTS 136, 137 AND 138 SHERWOOD SHORES, A SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

l. Millard County, Utah assessor's parcel number HD-3511, with the following legal description:

SECTION 16, TOWNSHIP 16 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.
LESS: BEGINNING AT THE SOUTHWEST CORNER OF SECTION 16, THENCE NORTH 1320 FEET; THENCE EAST 1320 FEET; THENCE SOUTH 1320 FEET; THENCE WEST 1320 FEET TO THE POINT OF BEGINNING.
SUBJECT TO A 30 FOOT EASEMENT AROUND THE PERIMETER OF SAID PROPERTY.(HD-3511)

m. Millard County, Utah assessor's parcel number HD-3511-1, with the following legal description:

BEGINNING AT THE SOUTHWEST CORNER OF SECTION 16, TOWNSHIP 16 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN; THENCE NORTH 1320 FEET; THENCE EAST 1320 FEET; THENCE SOUTH 1320 FEET; THENCE WEST 1320 FEET TO THE POINT OF BEGINNING.(HD-3511-1)

n. Millard County, Utah assessor's parcel number HD-4497-1, with the following legal description:

Beginning 18 rods South and 3 rods East of the Northwest Corner of the Southwest Quarter of Section 33, Township 17 South, Range 7 West, Salt Lake Base and Meridian; thence South 145 feet; thence East 15 rods, thence North 145 feet; thence West 15 rods to the point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of the State Road right of way.

o. Millard County, Utah assessor's parcel number HD-4606-2, with the following legal description:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN. LESS: BEGINNING AT THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN, THENCE SOUTH 89°51'00" WEST 544.50 FEET ALONG THE SOUTH BOUNDARY OF SECTION 2, THENCE NORTH 600 FEET PARALLELING THE EAST BOUNDARY OF THE SOUTHEAST QUARTER OF SECTION 2; THENCE NORTH 89°51'00" EAST 544.50 FEET PARALLELING THE SOUTH BOUNDARY TO THE EAST BOUNDARY OF SECTION 2; THENCE SOUTH 600 FEET ALONG THE EAST BOUNDARY OF SECTION 2, TO THE POINT OF BEGINNING. EXCEPTING THEREFROM ALL RIGHTS OF WAY, STOCK TRAILS, DITCHES AND CANALS, GRAVEL PITS AND GRAVEL BEDS. TOGETHER WITH WATER RIGHT NO. 68-2388, APP.*CLAIM NO. A57256. SUBJECT TO A RIGHT OF WAY FOR A COUNTY ROAD, AND INCIDENTAL PURPOSES AS NOW EXISTS.

p. Millard County, Utah assessor's parcel number HD-4606-2-1, with the following legal description:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN. LESS: BEGINNING AT THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN, THENCE SOUTH 89°51'00" WEST 544.50 FEET ALONG THE SOUTH BOUNDARY OF SECTION 2, THENCE NORTH 600 FEET PARALLELING THE EAST BOUNDARY OF THE SOUTHEAST QUARTER OF SECTION 2; THENCE NORTH 89°51'00" EAST 544.50 FEET PARALLELING THE SOUTH BOUNDARY TO THE EAST BOUNDARY OF SECTION 2; THENCE SOUTH 600 FEET ALONG THE EAST BOUNDARY OF SECTION 2, TO THE POINT OF BEGINNING. EXCEPTING THEREFROM ALL RIGHTS OF WAY, STOCK TRAILS, DITCHES AND CANALS, GRAVEL PITS AND GRAVEL BEDS. TOGETHER WITH WATER RIGHT NO. 68-2388, APP. CLAIM NO. A57256. SUBJECT TO A RIGHT OF WAY FOR A COUNTY ROAD, AND INCIDENTAL PURPOSES AS NOW EXISTS.

q. Millard County, Utah assessor's parcel number HD-4609, with the following legal description:

THE WEST HALF OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.
EXCEPTING THEREFROM ALL OIL, GAS AND/OR OTHER MINERALS IN, ON OR UNDER SAID LAND, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSE OF EXPLORING AND/OR REMOVING THE SAME.

r. Millard County, Utah assessor's parcel number HD-4612, with the following legal description:

THE SOUTH HALF OF SECTION 3, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.

s. Millard County, Utah assessor's parcel number HD-4648, with the following legal description:

THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN. (HD-4648)

t. Millard County, Utah assessor's parcel number HD-4654, with the following legal description:

THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.
EXCEPTING THEREFROM ALL RIGHTS OF WAY, STOCK TRAILS, DITCHES AND CANALS, GRAVEL PITS AND GRAVEL BEDS.

u. Millard County, Utah assessor's parcel number HD-4657, with the

following legal description:

THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.

EXCEPTING THEREFROM ALL RIGHTS OF WAY, STOCK TRAILS, DITCHES AND CANALS, GRAVEL PITS AND GRAVEL BEDS.

EXCEPTING THEREFROM ALL OIL, GAS AND/OR OTHER MINERALS IN, ON OR UNDER SAID LAND, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSE OF EXPLORING AND/OR REMOVING THE SAME.

v. Millard County, Utah assessor's parcel number HD-4658, with the

following legal description:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN, THENCE NORTH 0°48'32" EAST 234.51 FEET ALONG THE SECTION LINE; THENCE NORTH 78°41'15" EAST 680 FEET; THENCE SOUTH 03°07'08" WEST 378.38 FEET TO THE SOUTH BOUNDARY OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH 89°07'23" WEST 649.59 FEET ALONG SAID SOUTH BOUNDARY TO THE POINT OF BEGINNING. (HD-4658)

w. Millard County, Utah assessor's parcel number HD-4658-1, with the

following legal description:

THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN.

EXCEPTING THEREFROM ALL OIL, GAS AND/OR OTHER MINERALS IN, ON OR UNDER SAID LAND, TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS FOR THE PURPOSE OF EXPLORING AND/OR REMOVING THE SAME.

LESS: BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 17 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN, THENCE NORTH 0°48'32" EAST 234.51 FEET ALONG THE SECTION LINE; THENCE NORTH 78°41'15" EAST 680 FEET; THENCE SOUTH 03°07'08" WEST 378.38 FEET TO THE SOUTH BOUNDARY OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER; THENCE NORTH 89°07'23" WEST 649.59 FEET ALONG SAID SOUTH BOUNDARY TO THE POINT OF BEGINNING.

x. Millard County, Utah assessor's parcel number MA-2662-B, with the

following legal description:

THE SOUTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 15 SOUTH, RANGE 8 WEST, SALT LAKE BASE AND MERIDIAN. (MA-2662-B)

EXCEPTING THEREFROM: THAT PORTION WITHIN THE BOUNDARY OF THE MILLARD COUNTY ROAD RIGHT-OF-WAY.

y. Utah County, Utah assessor's tax parcel number 55-718-0006, commonly known as 11404 S. 5825 W., West Mountain, UT 84651, with the following legal description:

Lot 6, Plat "A", West Mountain Estates Amended Subdivision, according to the official plat thereof on file in the office of the Recorder, Utah County, Utah.

z. Utah County, Utah assessor's parcel number 514680132, commonly known as 1045 S. 1700 W., Unit 132, Payson, UT 84651, with the following legal description:

UNIT 132, BUILDING 1, CONTAINED WITHIN THE PLAT "A" RIDGESTONE CONDOMINIUMS, A CONDOMINIUM PROJECT AS THE SAME IS IDENTIFIED IN THE RECORD OF SURVEY MAP RECORDED ON AUGUST 23, 2006, IN UTAH COUNTY, AS ENTRY NO. 109522:2006 (AS SAID RECORD OF SURVEY MAP MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED) AND IN THE DECLARATION RECORDED ON AUGUST 23, 2006 IN UTAH COUNTY, AS ENTRY NO. 109524:2006 (AS SAID DECLARATION MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED.)

TOGETHER WITH THE APPURTENANT UNDIVIDED INTEREST IN SAID PROJECT'S COMMON AREAS AS ESTABLISHED IN SAID DECLARATION AND ALLOWING FOR PERIODIC ALTERATION BOTH IN THE MAGNITUDE OF SAID UNDIVIDED INTEREST AND IN THE COMPOSITION OF THE COMMON AREAS AND FACILITIES TO WHICH SAID INTEREST RELATES.

aa. Los Angeles County, California assessor's ID number 2842-027-174, commonly known as 18850 Vista Del Canon, Unit G, Newhall, CA 91321, with the following legal description:

TR=44328 Lot 9 Condo Unit 305

bb. San Bernardino County, California assessor's parcel number 0541131080000, with the following legal description:

W 1/2 W 1/2 E 1/2 W 1/2 SEC 33 TP 11N R 4E EX PTN LYING S OF N LI HGWY 91 AND EX COM AT NW COR E 1/2 W 1/2 SD SEC TH S 3874.72 FT ALG W LI SD E 1/2 W 1/2 TH N 61 DEG 16 MIN 00 SECONDS E 375.96 FT TO E LI W 1/2 W 1/2 E 1/2 W 1/2 SD SEC TH N 3697.59 FT TH W 331.2 FT M/L TO POB 6.2 AC M/L

cc. Howard County, Texas assigned property id number R000046408, with the following legal description:

Acres 18.380, SC 36 BK 32 1N 009.01 ACQ 031306 BLK/TRACT 32 1N 18.38 ACRES

dd. Howard County, Texas assigned property id number R000046407, with the following legal description:

Acres 608.680, SC 36 BK 32 1N 009 ACQ 031306 BLK/TRACT 32 1N 608.68 ACRES

ee. Salt Lake County, Utah property with the address of 858 W. Clover Meadow Drive, Salt Lake City, UT 84123, with the following legal description:

LOT 112, MISTY MEADOWS SUBDIVISION NO. 2, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF SALT LAKE, STATE OF UTAH.

21. Upon receiving actual notice of this Order by personal service, electronic service, or otherwise, all persons other than law enforcement officials acting within the course and scope of their official duties, are prohibited (without the express written permission of the Receiver) from: (a) entering such premises; (b) removing anything from such premises; or (c) destroying, concealing or erasing anything on such premises.

22. To execute the express and implied terms of this Order, the Receiver is authorized to change locks to the premises described above. The Receiver shall have exclusive control of the keys. The Receiver is also authorized to implement surveillance or other security measures to ensure that the terms of this Order are enforced. The Receivership Defendants, or any other person acting or purporting to act on their behalf, are ordered not to change the locks in any manner, nor to have duplicate keys made, nor shall they have keys to these properties in their possession during the term of the receivership. The Receivership Defendants shall not otherwise

interfere with the surveillance or security measures put in place by the Receiver on the premises described above.

F. Duties of Receivership Defendants, subsidiaries, and affiliated parties to provide information and assist the Receiver.

23. The Receivership Defendants, their subsidiaries, any affiliated entities, and any affiliated individuals (including spouses and other family members) shall cooperate with and assist the Receiver in the performance of his duties and obligations. As such, they must respond promptly and truthfully to all requests for information and documents from the Receiver.

24. The Receivership Defendants and the past and present officers, directors, agents, managers, general and limited partners, trustees, attorneys, transfer agents, website and electronic mail administrators, database administrators, accountants, and employees of the Entity Receivership Defendants, as well as those acting in their place, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, or relating to, the Receivership Defendants or Receivership Property; such information shall include, but is not limited to: books, records, documents, accounts, stock certificates, intellectual property records, evidence of intellectual property rights, computer and electronic records, and all other instruments and papers. If these documents and records are no longer within their control, they must provide information to the Receiver identifying the records, the persons in control of the records, and efforts undertaken to recover the records.

25. Within 30 days of the entry of this Order, the Receivership Defendants shall file with the Court and serve upon the Receiver and counsel for the United States, a sworn statement, listing: (a) the identity, location, and estimated value of all Receivership Property; (b) all employees (and job titles thereof), other personnel, attorneys, accountants, and any other agents or contractors of the Entity Receivership Defendants; (c) the names, addresses, and amounts of

claims of all known creditors of the Receivership Defendants; (d) the existence of and information about all insurance policies owned by, issued to, or obtained by any of the Receivership Defendants or for which a Receivership Defendant is the beneficiary; (e) the password for all computers, electronic devices, software programs, online financial accounts, websites, social media accounts, cloud storage, servers, and any other book or record or account of the Receivership Defendants that is accessible by password; (f) the status of any pending litigation to which any of the Receivership Defendants are involved, other than this instant case, including the names of the parties, the names of attorneys who have represented the Receivership Defendants, and the location of any records relating to the litigation which records are not under the control of Receivership Defendants; and (g) a financial statement setting forth the identity, value, and location of all assets of each Receivership Defendant, including assets held outside the territory of the United States.

26. Within 60 days of the entry of this Order, the Receivership Defendants shall file with the Court and serve upon the Receiver and counsel for the United States a sworn statement and accounting, with complete documentation, covering the period from January 1, 2005, to the present:

a. Of all Receivership Property, wherever located, held by or in the name of the Receivership Defendants, or in which any of them, directly or indirectly, has or had any beneficial interest, or over which any of them maintained or maintains or exercised or exercises control, including, but not limited to: (i) all securities, investments, funds, digital currencies, real estate, vehicles, aircraft, watercraft, recreational vehicles, jewelry and other assets, stating the location of each; (ii) all patents and other intellectual property, including documents of the grants of intellectual property, all documents used in

support of the applications, all models or samples of products that are the subject of intellectual property grants, and any documents showing the assignment, sale, or licensing of any intellectual property; and (iii) any and all accounts, including all funds held in such accounts, with any bank, brokerage, or other financial institution, including the account statements from each bank, brokerage, or other financial institution.

b. Identifying every safe deposit box, commercial mail box, business office, storage facility, or other building or facility belonging to, for the use or benefit of, controlled by, or titled in the name of any Receivership Defendant, or subject to access by any Receivership Defendant or other person subject to the Asset Freeze in Section A of this Order.

c. Identifying all credit, bank, charge, debit, stored-value, or other deferred payment card issued to or used by each Receivership Defendant including, but not limited to, the issuing institution, the card or account numbers, all persons or entities to which a card was issued or with authority to use a card, the balance of each account or card as of the most recent billing statement, and all statements for the last twelve months.

d. Identifying for the Entity Receivership Defendants: (i) the names, contact information, and number of shares for all shareholders as of November 23, 2015, and all purchases and sales of stock, including common and preferred shares, since November 23, 2015, which information shall include identification of the buyers and sellers, the number of shares transferred, the dates of the transfers, and the value of the transfers; and (ii) the names and contact information for transfer agents, market makers, attorneys, and accountants who provided services to IAS relating to its status as an issuer or publicly-held company.

e. Of all assets received by any of the Receivership Defendants from any person or entity, including the value, location, and disposition of any assets so received.

f. Of all funds received by the Receivership Defendants, and each of them, in any way related, directly or indirectly, to the conduct alleged in the United States' Complaint in this case. The submission must clearly identify, among other things, all purchases of solar lenses or alternative energy systems or other products sold by Receivership Defendants, the dates and amounts of the purchases, and the current location of funds received from the sales.

g. Of all expenditures exceeding \$1,000 made by any of them, including those made on their behalf by any person or entity.

h. Of all transfers of assets by them, including a description or identification of: (i) the assets; (ii) the transferees of the assets; (iii) the date of the transfers; (iv) the amount or value of the assets transferred; (v) a description of any goods or services received in exchange for the assets, including the value of any goods or services received; and, (vi) to the best of their knowledge, the current location of the assets.

27. Within 30 days of the entry of this Order, the Receivership Defendants shall provide to the Receiver and counsel for the United States copies of the Receivership Defendants' federal income tax returns for the fiscal or calendar years beginning with January 1, 2010, with all relevant and necessary underlying documentation.

28. Johnson and Shepard, as well as all past and present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers, and general and limited partners of the Entity Receivership Defendants, and other appropriate persons or entities, including the family members of Johnson and Shepard, shall promptly

answer under oath to the Receiver all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Defendants or any other matter relevant to the operation or administration of the receivership or collection of funds due to the Receivership Defendants. If the Receiver deems it necessary to require the appearance of the aforementioned persons or entities, then the Receiver shall make his discovery requests in accordance with the Federal Rules of Civil Procedure.

29. Counsel or other retained parties who prepared or submitted intellectual property applications for Johnson, RaPower-3, or IAS shall provide to the Receiver all information requested by the Receiver relating to the applications, intellectual property rights granted, transfer of intellectual property rights, and information regarding the present holders or owners of those rights.

G. Repatriation of foreign assets and documents.

30. The Receivership Defendants are hereby ordered to forthwith transfer to the Receiver all Receivership Property outside the United States held jointly or singly or under their direct or indirect ownership or control, in whole or in part, with such Receivership Property transferred to the possession of the Receiver or to one or more accounts as may be determined by the Receiver.

31. The Receivership Defendants shall provide to the Receiver full and complete access to records of their accounts or assets held by any financial institutions outside the United States and shall deliver to the Receiver and counsel for the United States such consents to release financial records or assets as may be reasonably requested by the Receiver or the United States.

32. In furtherance of the foregoing repatriation provisions, the Receivership Defendants, their successors and assigns, and their officers, agents, servants, employees, affiliates, and attorneys, and all persons in active concert or participation with them who receive

actual notice of this Order by personal service or otherwise, are hereby enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Receivership Property, or in the hindrance of the repatriation required by this Order, including but not limited to:

a. Sending any statement, letter, fax, e-mail, or wire transmission, or telephoning or engaging in any act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of foreign trust agreement, until such time that all Receivership Property has been fully repatriated in accordance with this Order; and

b. Notifying any trustee, trust protector, or other agent of any foreign company, trust, or similar entity of either the existence of this Order, or of the fact that repatriation is required pursuant to court order, until such time that all Receivership Property has been fully repatriated in accordance with this Order.

33. In the Receiver’s sole discretion, after consultation with counsel for the United States, the Receiver may take such steps as are necessary or appropriate to repatriate to the territory of the United States, all Receivership Property that is located outside the territory of the United States and to prevent any transfer, disposition, or dissipation whatsoever of any Receivership Property located outside the United States.

34. Within 30 days of the date of this Order, the Receivership Defendants shall file with the Court and serve on the Receiver and counsel for the United States a sworn statement: (a) certifying their compliance with the repatriating provisions of this Order; (b) describing actions they have taken to repatriate assets to territory of the United States; (c) describing any

assets that remain outside the jurisdiction of the United States; and (d) explaining reasons any assets outside the jurisdiction of the United States have not been repatriated.

H. Cooperation with Receiver; injunction against interference.

35. The Receivership Defendants and all persons receiving notice of this Order by personal service, facsimile, electronic transmission, or otherwise, are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would interfere with or prevent the Receiver from performing his duties, including conduct that would or might:

a. Interfere with the Receiver's efforts to take control, possession, or management of any Receivership Property. Such prohibited actions include, but are not limited to, using self-help or executing or issuing (or causing the execution or issuance of) any court attachment, subpoena, replevin, execution, or other process for the purpose of impounding or taking possession of or interfering with or creating or enforcing a lien upon any Receivership Property.

b. Hinder, obstruct, or otherwise interfere with the Receiver in the performance of his duties. Such prohibited actions include, but are not limited to, concealing, destroying or altering records or information.

c. Dissipate or otherwise diminish the value of any Receivership Property. Such prohibited actions include, but are not limited to, releasing claims or disposing, transferring, exchanging, assigning or in any way conveying any Receivership Property; enforcing judgments, assessments, or claims against any Receivership Property or any Receivership Defendant; and attempting to modify, cancel, terminate, call, extinguish, revoke, or accelerate the due date of any lease, loan, mortgage, indebtedness, security

agreement, or other agreement executed by any Receivership Defendant or which otherwise affects any Receivership Property.

d. Interfere with or harass the Receiver or interfere in any manner with the exclusive jurisdiction of this Court over the receivership estate.

36. All banks, brokerage firms, financial institutions, and other persons or entities which have possession, custody, or control of any assets or funds held by, or in the name of, or for the benefit of, directly or indirectly, the Receivership Defendants that receive actual notice of this Order by personal service, electronic transmission, or otherwise shall:

a. Not liquidate, transfer, sell, convey or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Defendants except upon written instructions from the Receiver.

b. Not exercise any form of setoff, alleged setoff, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.

c. Deny Receivership Defendants access to any safe deposit box without the written consent of the Receiver.

d. Within five business days of receipt of notice of this Order, file with the Court and serve on the Receiver and counsel for the United States a certified statement setting forth, with respect to each such account or other asset, a balance in the account or description of the assets as of the close of business on the date of receipt of the notice.

e. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.

37. All persons and entities owing any obligation, debt, or distribution to any Receivership Defendant shall, until further order of this Court, pay all such obligations to the Receiver, in accordance with the terms thereof and the Receiver's receipt of such payments shall have the same force and effect as if the Receivership Defendant had received such payment. Prior to depositing or cashing any payments made to the Receiver, the Receiver shall investigate whether the payor is a person or entity who purchased a solar lens or alternative energy system or other product from Receivership Defendants. If so, the Receiver shall return the payment along with a copy of the FFCL.⁹

38. Subject to payment for services provided, any entity furnishing water, electric, telephone, sewage, or garbage or trash removal services to the Receivership Defendants shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver.

39. The Receiver shall not be responsible for payment or performance of any obligations of the Receivership Defendants that were incurred by or for the benefit of, the Receivership Defendants prior to the date of this Order, including but not limited to any agreement with third-party vendors, landlords, brokers, purchasers, or other contracting parties.

40. Upon the request of the Receiver, the United States Marshal Service, in any judicial district, is hereby ordered to assist the Receiver in carrying out his duties to take possession, custody, and control of, or identify the location of, any assets, records, or other materials belonging to the receivership estate.

41. All attorneys, accountants, and auditors who have represented any of the Entity Receivership Defendants shall cooperate fully with the Receiver in providing the Receiver the

⁹ *Supra* note 2.

contents of their files relating to those representations. Any claim of attorney-client or accountant-client privilege shall be made on motion and include a privilege log specifically identifying each document or item withheld from production and provide sufficient foundational information to allow an individualized assessment as to the applicability of the claimed privilege. The privilege log should include a document's date of creation, author, title or caption, addressee, recipients, and general nature or purpose for creation.

42. The Receiver shall promptly notify the Court and counsel for the United States of any failure or apparent failure of any person or entity to comply in any way with the terms of this Order, the Preservation Order,¹⁰ the Memorandum Decision,¹¹ or the FFCL.¹²

43. In the event any person fails to deliver or transfer any Receivership Property or otherwise fails to comply with any provision of Section H of this Order, the Receiver may file ex parte an "Affidavit of Non-Compliance" regarding the failure, provided, however, if such an affidavit is directed to a Receivership Defendant, such Receivership Defendant shall be entitled to ten days' notice thereof (unless shortened by an order of this Court) and an opportunity to be heard. Except as set forth above, upon the filing of the affidavit, the Court may authorize, without additional process or demand, writs of possession or sequestration or other equitable writs requested by the Receiver. The writs shall authorize and direct the United States Marshal or any federal or state law enforcement officer to seize the Receivership Property, document, or other thing, and to deliver it to the Receiver.

¹⁰ *Supra* note 8.

¹¹ *Supra* note 1.

¹² *Supra* note 2.

I. Stay of litigation.

44. The proceedings described below (“Ancillary Proceedings”)—excluding the instant proceeding, all appeals related to this proceeding, and all policy or regulatory actions and actions of the United States related to the above-captioned action—are stayed until further order of this Court: All civil legal proceedings of any nature, including but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving:

- a. the Receiver in his capacity as Receiver;
- b. any Receivership Property, wherever located;
- c. any of the Receivership Defendants, including subsidiaries, partnerships, or joint ventures; or
- d. any of the Receivership Defendants’ past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity—whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise.

45. The Receiver shall file a notice of stay in any and all currently pending litigation (excluding this action) and in any and all actions that may be filed against Receivership Defendants while the receivership is ongoing.

46. The parties to any and all Ancillary Proceedings are enjoined from commencing or continuing any such legal proceeding, or from taking any action, in connection with any such proceeding, including, but not limited to, the issuance or employment of process.

47. All Ancillary Proceedings are stayed in their entirety, and all courts having any jurisdiction thereof are enjoined from taking or permitting any action until further order of this Court. Further, as to a cause of action accrued or accruing in favor of one or more of the

Receivership Defendants against a third person or party, any applicable statute of limitation is tolled during the period in which the injunction against commencement of legal proceedings is in effect as to that cause of action.

48. Upon a determination by the Receiver that action should be taken in any of the Ancillary Proceedings, the Receiver shall seek a lift of stay of litigation from this Court prior to taking any action in the Ancillary Proceeding.

J. Notice to third parties.

49. The Receiver shall promptly give notice of his appointment to all known officers, directors, agents, employees, shareholders, creditors, debtors, managers, and general and limited partners of the Receivership Defendants as the Receiver deems necessary or advisable to effectuate the operation of the Receivership.

50. In furtherance of his responsibilities, the Receiver is authorized to communicate with and serve this Order upon any person, entity, or government office that he deems appropriate to inform of the status of this matter or the financial condition of the receivership estate. All government offices which maintain public files of securities interests in real and personal property shall, consistent with such office's applicable procedures, record this Order upon the request of the Receiver or counsel for the United States.

51. The Receiver is authorized to instruct the United States Postmaster to hold and reroute mail which is related, directly or indirectly, to the business, operations, or activities of any of the Receivership Defendants (the "Receiver's Mail"), including all mail addressed to, or for the benefit of, the Receivership Defendants. The Postmaster shall not comply with, and shall immediately report to the Receiver, any change of address or other instruction given by anyone other than the Receiver concerning the Receiver's Mail. The Receivership Defendants shall not open any of the Receiver's Mail and shall immediately turn over such mail, regardless of when

received, to the Receiver. All personal mail of Johnson or Shepard, any mail appearing to contain privileged information, and any mail not falling within the mandate of the Receiver, shall be released to the named address by the Receiver. The foregoing instructions shall apply to any proprietor, whether individual or entity, of any private mail box, depository, business, service, or mail courier or delivery service hired, rented, or used by the Receivership Defendants. The Receivership Defendants shall not open a new mailbox or take any steps, or make any arrangements, to receive mail in contravention of this Order, whether through the U.S. mail, a private mail depository, or courier service.

K. Managing assets.

52. The Receiver shall establish one or more custodial accounts at a federally insured bank to receive and hold all cash equivalent Receivership Property (the “Receivership Funds”).

53. The Receiver’s deposit accounts shall identify the account as a receivership account by using a label on the account such as “Wayne Klein, Receiver for RaPower-3” or “Receivership Estate of RaPower-3.”

54. Except as otherwise provided in this Order and specifically as provided in Section L of this Order, the Receiver may, after consultation with counsel for the United States and without further order of this Court, transfer, compromise, sell, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business on terms and in the manner the Receiver deems most beneficial to the receivership estate and with due regard for the realization of the true and proper value of such Receivership Property.

55. Subject to Paragraph 56 of this Order, the Receiver is authorized to locate, list for sale or lease, engage a broker to sell or lease, cause the sale or lease, and take all necessary and reasonable actions to cause the sale or lease of all real property in the receivership estate, either at public or private sale, on terms and in the manner the Receiver deems most beneficial to the

receivership estate and with due regard to the realization of the true and proper value or such real property.

56. Upon further order of this Court, in accordance with such procedures as may be required by this Court and additional authority, such as 28 U.S.C. §§ 2001 and 2002, the Receiver is authorized to sell and transfer clear title to all real property in the receivership estate.

57. The Receiver is authorized to take all actions to manage, maintain, and wind down business operations of the receivership estate, including making legally-required payments to the United States, creditors, employees, and agents of the receivership estate and communicating with vendors, investors, government and regulatory authorities, and others as appropriate.

58. The Receiver shall take all necessary steps to enable the Receivership Funds to obtain and maintain the status of a taxable “Settlement Fund,” within the meaning of Section 468B of the Internal Revenue Code and or the regulations, when applicable, whether proposed, temporary, or final, or pronouncements thereunder, including the filing of the elections and statements contemplated by those provisions. The Receiver shall be designated the administrator of the Settlement Fund, pursuant to Treas. Reg. § 1.468B-2(k)(3)(i), and shall satisfy the administrative requirements imposed by Treas. Reg. § 1.468B-2, including, but not limited to: (a) obtaining a taxpayer identification number; (b) timely filing applicable federal, state, and local tax returns and paying taxes reported thereon; and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Settlement Fund. The Receiver shall cause the Settlement Fund to pay taxes in a manner consistent with treatment of the Settlement Fund as a “Qualified Settlement Fund.” The Receivership Defendants shall

cooperate with the Receiver in fulfilling the Settlement Fund's obligations under Treas. Reg. § 1.468B-2.

L. Investigation and prosecution of claims.

59. Subject to the requirement that leave of this Court is required to commence or resume litigation, the Receiver is authorized, empowered, and directed to investigate, prosecute, defend, intervene in, or otherwise participate in, compromise, and adjust actions in any state, federal, or foreign court proceeding of any kind as may in his discretion, and after consultation with counsel for the United States, be advisable or proper to recover or conserve Receivership Property.

60. Subject to his obligation to expend receivership funds in a reasonable and cost-effective manner, the Receiver is authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted and, after obtaining leave of this Court, to institute such actions and legal proceedings for the benefit, and on behalf, of the receivership estates as the Receiver deems necessary and appropriate. The Receiver may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission, restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order. Where appropriate, the Receiver should provide prior notice to counsel for the United States before commencing investigations or actions.

61. The Receiver hereby holds, and is therefore empowered, on seven-days notice, to waive, all privileges, including the attorney-client privilege and accountant-client privilege, held by all Entity Receivership Defendants. The Receivership Defendants' motion opposing a waiver must be filed within that seven-day period.

62. The Receiver has a continuing duty to ensure there are no conflicts of interest between the Receiver, his Retained Personnel (as defined below), and the receivership estate.

M. Bankruptcy filing.

63. The Receiver may seek authorization from this Court to file voluntary petitions for relief under Title 11 of the United States Code (the “Bankruptcy Code”) for the Receivership Defendants. If a Receivership Entity is placed in bankruptcy proceedings, the Receiver may become, and may be empowered to operate the receivership estate as, a debtor in possession. In such a situation, the Receiver shall have all the powers and duties as provided a debtor in possession under the Bankruptcy Code to the exclusion of any other person or entity.

64. The Stay of Litigation provisions, in Section I of this Order, bar any person or entity other than the Receiver from placing any of the Receivership Defendants in bankruptcy proceedings.

65. The Receiver is placed on notice that RaPower-3’s most recent bankruptcy filing (D. Utah Case No. 2:18-cv-00608-DN) was dismissed as a bad faith filing, and that RaPower-3 is barred from filing a bankruptcy petition for 180 days following the dismissal of the petition in that case.¹³ To the extent that the Receiver determines a bankruptcy petition is appropriate with respect to RaPower-3, the Receiver shall not file a bankruptcy petition for RaPower-3 until after 180 days of the dismissal of the prior bankruptcy proceeding or if the United States has no objection and the Receiver receives permission from this Court.

N. Administration of the receivership estate.

66. Until further order of this Court, the Receiver shall not be required to post bond or give undertaking of any type in connection with his fiduciary obligations in this matter.

¹³ See D. Utah Case No. 2:18-cv-00608-DN, Judgment in a Civil Case, doc. no. 11, filed September 4, 2018; *id.*, Order Dismissing the Case, doc. no. 6, filed August 22, 2018.

67. The Receiver is authorized to solicit persons and entities (“Retained Personnel”) to assist him in carrying out the duties and responsibilities in this Order. The Receiver shall first obtain Court approval before retaining counsel and accountants for the receivership estate.

68. The Receiver and Retained Personnel, acting within the scope of such agency, are entitled to rely on all outstanding rules of law and orders of this Court and shall not be liable to anyone for their own good faith compliance with any order, rule, law, judgment, or decree. In no event shall the Receiver or Retained Personnel be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel nor shall the Receiver or Retained Personnel be liable to anyone for actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

69. Nothing contained in this Order, nor the grant or exercise of any powers provided for herein by the Receiver shall cause the Receiver to be considered a past or present owner, operator, or other potentially responsible or liable party under any provision of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”),¹⁴ or the Georgia Hazardous Site Response Act (“HSRA”),¹⁵ or to incur liability based on ownership or operation of the Receivership Property under any other statutory, regulatory, common law, or strict liability theory. Furthermore, to the extent hazardous substances, wastes, or constituents are known or discovered to be present on Receivership Property, the Receiver shall not be considered to be in any direct or indirect contractual relationship with any party responsible for such substances, wastes, or constituents under CERCLA or HSRA, and shall instead be

¹⁴ 42 U.S.C. § 9601 et seq.

¹⁵ GA. CODE § 12-8-90 et seq.

considered to be acting solely in a “fiduciary capacity” with respect to the Receivership Property in accordance with § 107(n) of CERCLA¹⁶ and § 12-8-92(7) of HSRA.¹⁷

70. At the request of counsel for the United States, the Receiver shall provide counsel for the United States with any documentation or information requested that is reasonably related to the United States’ duties in connection with this section of the receivership estate or that may be necessary to meet its reporting requirements or that is otherwise necessary to further the mission of the United States Department of Justice. The Receiver may cooperate with other government agencies investigating the conduct described in the United States’ complaint in this case and share information he has learned or documents recovered through his work as Receiver.

71. The Receiver need not obtain Court approval prior to the disbursement of receivership funds for expenses in the ordinary course of the administration and operation of the receivership estate. Further, prior court approval is not required for payments of applicable federal, state, or local taxes.

72. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement which shall be paid from the receivership estate upon approval of a filed motion for the payment of fees and expenses. The parties shall have 14 days to file a response to any such motion.

73. Unless otherwise ordered, within 45 days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply by motion to the Court for compensation and expense reimbursement from the receivership estate (the “Quarterly Fee Motions”). At least 30 days prior to the filing of each Quarterly Fee Motion with the Court, the Receiver shall serve

¹⁶ 42 U.S.C. § 9607(n).

¹⁷ GA. CODE § 12-8-92(7).

upon counsel for the United States a complete copy of the proposed motion, together with all exhibits and relevant billing information.

74. All Quarterly Fee Motions will be interim and will be subject to cost benefit and final review at the close of the receivership. At the close of the receivership, the Receiver shall file a final fee motion, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership.

75. Each Quarterly Fee Motion shall:

- a. Comply with the terms of any billing instructions agreed to by the Receiver.
- b. Include a certification by the applicant that the certifying professional has read the motion and that to the best of the applicant's knowledge, information, and belief formed after reasonable inquiry, the motion and all fees and expenses therein are true and accurate.
- c. Contain representations that: (i) the fees and expenses included therein were incurred in the best interests of the receivership estate; and (ii) the Receiver has not entered into any agreement, written or oral, express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the receivership estate, or any sharing thereof.
- d. Attach all exhibits and relevant billing information.

76. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based on acts or omissions committed in their representative capacities.

77. If the Receiver decides to resign, the Receiver shall first give written notice to the Court and counsel for the United States of his intention, and the resignation shall not be effective

until the Court appoints a successor. The Receiver shall then follow such instructions as the Court may provide.

O. Living expenses for Johnson and Shepard; use of receivership assets.

78. Within 30 days of the entry of this Order, the Receiver shall investigate the monthly income and living expenses of Johnson and Shepard and make a recommendation to the Court regarding whether any monthly living expenses should be paid out of the Receivership Property to Johnson or Shepard. The Receiver shall take into account whether Johnson or Shepard have any Non-Receivership Property or access to any assets or property from sources other than the Receivership Property or from assets that the Receiver decides to abandon or otherwise dispose of in the course of the receivership. The Receiver shall not pay any monthly living expenses to Johnson or Shepard in any month where there is insufficient funds in the Receivership bank accounts to pay the living expenses or in any month where Johnson or Shepard is not in substantial, good faith compliance with orders of this Court.

79. Johnson or Shepard may make application to the Receiver to use Receivership Property. Such application should include an explanation of the reasons for the request. The Receiver may consult with counsel for the United States before deciding whether to grant or deny the application. If the Receiver grants the request, the Receiver may condition the granting of the request on a reduction in the amount of monthly living expenses to be paid to the Receivership Defendant and on a finding that the Receivership Defendant is in substantial, good faith compliance with orders of this Court.

80. If Johnson or Shepard disagree with a decision by the Receiver regarding applications to use Receivership Property or payment of monthly living expenses, they may file a motion with the Court requesting an order directing the Receiver to make payments or allow use of the Receivership Property.

81. No funds belonging to the receivership estate, other than the monthly living expenses, if any, paid to Johnson and Shepard, may be used to pay legal fees for any Receivership Defendant without approval of the Receiver or order of the Court.

82. The Receiver may, in his discretion, permit Johnson and Shepard to directly withdraw the monthly living expenses from a designated bank account and require Johnson and Shepard to account for the withdrawal on a monthly basis in a form determined by the Receiver.

P. Reports and recommendations.

83. The Receiver is authorized, empowered, and directed to develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property.

84. Within 60 days from the entry of this Order, the Receiver shall file with the Court an accounting of the receivership estate reflecting (to the best of the Receiver's knowledge) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the receivership estate (the "Initial Accounting"). The Receiver shall also detail his efforts in locating Receivership Property and what, if any, additional efforts need to be undertaken to provide a full accounting of the receivership estate to this Court.

85. As part of the Initial Accounting, the Receiver is directed to investigate the publicly-traded status of IAS and provide a recommendation to the Court on whether IAS should remain a publicly traded company or should otherwise be liquidated and dissolved. The

Receiver's Initial Accounting should describe in detail his findings and recommendations and include the following:

- a. A summary of IAS's reporting and disclosures obligations, whether by the SEC or any other federal, state, or local regulatory agency, and whether IAS is current in those obligations.
- b. An estimate of how long it will take the Receiver to conduct an investigation, gather the necessary information, and file any reports or other information required by the reporting and disclosure obligations referenced in Paragraph 85(a) of this Order.
- c. A summary of the trading of IAS stock from the initiation of this lawsuit on November 23, 2015, specifically outlining the trading conducted by Johnson, Shepard, their family members, and other insiders.
- d. A summary of the shares of stock currently owned by Johnson, Shepard, and their family members, whether directly or indirectly, including through spouses and the subsidiary and affiliated entities described in Paragraph 2 of this Order.
- e. A determination by the Receiver as to whether trading of IAS stock should be suspended. The Receiver is authorized to request the appropriate entity to suspend the trading of IAS stock prior to filing the Initial Accounting, and if the Receiver does so, the Receiver shall include the details of that request in the Initial Accounting.
- f. The Receiver's plan for the future of IAS, which may include continuing any operations of the business unrelated to the solar energy scheme or liquidating the business. If the Receiver determines that there are no operations unrelated to the solar

energy scheme, then the Receiver shall propose a liquidation plan rather than sell the shell entity and its “public company” status.

86. Within a reasonable time after the end of each calendar quarter, but no later than 30 days after the end of each calendar quarter, the Receiver shall file a “Quarterly Status Report.” The Quarterly Status Report shall, for the prior calendar quarter: (a) describe significant developments in the receivership estate during the quarter; (b) describe in summary form the assets recovered and disposed of during the quarter; (c) describe the status of litigation initiated, settled, or in progress during the quarter; (d) summarize receipts and disbursements during the quarter and the general financial operations and status of the receivership estate; (e) describe the extent to which the Receivership Defendants, or others subject to the requirements of this Order, have failed to cooperate with or comply with demands from the Receiver; and (f) describe the Receiver’s plans for moving forward to accomplish the objectives of the receivership.

87. At the close of the receivership, the Receiver shall submit a final accounting in connection with a motion to close the receivership estate as well as the Receiver’s final application for compensation and expense reimbursement.

Q. Claims process and distributions.

88. If it appears to the Receiver that proceeds from liquidation of the receivership estate will exceed the costs of administering the receivership estate and the amount necessary to satisfy the obligation to the United States, the Receiver may propose to the Court a claims process to be administered by the Receiver. The United States shall not be required to submit a claim as part of any claims process proposed to the Court.

89. After payment of allowed costs of administering the receivership estate, the Receiver shall distribute proceeds from the liquidation of the receivership estate as follows:

a. FIRST PRIORITY: The United States Department of Justice, for its costs that will be awarded under 28 U.S.C. § 1920 and any other costs this Court may award.

This payment shall be paid in full before any distributions to lower priority claims.

b. SECOND PRIORITY: To the United States, in the amount of \$14,207,517.

This payment shall be made in full before any distributions to lower priority claims.

c. THIRD PRIORITY:

i. To a Receivership Defendants' customer who files a claim with the Receiver with sufficient evidence to show:

1. The customer's investment or payments to Receivership Defendants for "solar lenses," "alternative energy systems," or other products sold by Receivership Defendants;

2. All payments or credits from Receivership Defendants to the customer, including rental payments, bonus payments, salaries, distributions, commissions, and overrides or similar payments due to multilevel marketing;

3. A copy of any filed tax return on which the customer claimed a tax deduction or tax credit relating to Receivership Defendants' "solar lenses" or "alternative energy systems"; and

4. The resolution of all the customer's issues with the Internal Revenue Service regarding any tax deduction or tax credit relating to or arising from "solar lenses" or "alternative energy systems" or other

products purchased from Receivership Defendants. (If a customer does not have an outstanding assessment for taxes, interest, or penalties relating to Receivership Defendants' "solar lenses" or "alternative energy systems," or has not been required to pay back taxes, interest, or penalties because the tax deduction or tax credits relating to Receivership Defendants' "solar lenses" or "alternative energy systems" have not been audited or disallowed by the Internal Revenue Service, then the customer shall not be entitled to compensation as a "Third Priority" claimant. If a customer has not yet resolved any outstanding tax issues relating to Receivership Defendants' "solar lenses" or "alternative energy systems" with the Internal Revenue Service, then the customer can file a claim with the Receiver and request assistance in resolving its outstanding tax issues. For any customer that requests assistance, the Receiver shall forward a copy of all documents submitted by the customer to a designated representative of the Internal Revenue Service with a copy to counsel for the United States. If the customer can resolve its issues with the Internal Revenue Service prior to the date the Receiver distributes any assets or monies to the Third Priority claimants, the customer shall be deemed a Third Priority claimant and may be entitled to payments under this subsection.)

ii. The Receiver is authorized to set a deadline for claims to be filed, but that deadline shall be no later than nine months after the entry of this Order and the appointment of the Receiver. The Receiver is authorized to request additional information from any customer or deem a customer's submission to be

insufficient for the purpose of determining whether the customer is a Third Priority claimant and entitled to payment under this subsection. Before any funds to customers determined to be Third Priority claimants are paid, the Receiver shall file a report with the Court showing the list of customers who filed claims with the Receiver, the Receiver's determination as to whether those customers qualify as Third Priority claimants, and the proposed amount to be paid to each customer. The parties shall have 14 days to respond or object to the payments the Receiver intends to make. Payments to claimants shall be made on a pro rata basis of the amount paid by the claimant to Receivership Defendants less all amounts received by the claimant from Receivership Defendants.

d. **FOURTH PRIORITY:** To the extent that there are any remaining assets or funds in the receivership estate that can be liquidated or distributed, the remainder shall be paid to the United States until or unless the total payments to First, Second, Third, and Fourth Priority claimants reaches \$50,025,480.

e. **FIFTH PRIORITY:** The Receiver is authorized to solicit claims from other persons who may be owed money by any Receivership Defendant, including any customers who do not otherwise qualify as Third Priority claimants. To the extent that there are any remaining assets or funds in the receivership estate that can be liquidated or distributed after the payment of expenses of administering the receivership estate and the First through Fourth Priority claimants, the Receiver has discretion to determine which, if any, additional claims should be paid from the remainder. The Receiver is authorized to solicit claims from noncustomers, including utility providers, suppliers, contractors, service providers, and other similar persons and entities within the same nine months that

it solicits claims from customers. As part of the recommendation the Receiver makes to the Court with respect to the Third Priority claimants, the Receiver shall also provide a recommendation to the Court as to whether any claims solicited from what are considered Fifth Priority claimants should be paid prior to the Third and Fourth Priority claimants. The Receiver shall include in its recommendation the name of such Fifth Priority claimants, the relationship of each such claimant to the Receivership Defendants, and a brief explanation as to why its claim should be paid before the Third and Fourth Priority claimants. As described in Paragraph 89(c) of this Order, the parties shall have 14 days to respond or object to the Receiver's recommendation.

f. RESIDUAL RECEIVERSHIP ESTATE: To the extent that there are any remaining assets or funds in the receivership estate that can be liquidated or distributed after the payment of expenses of administering the receivership estate and the First through Fifth Priority claimants, the residual shall revert to Receivership Defendants.

90. The Receiver may coordinate and share information with counsel for the United States and the Internal Revenue Service in evaluating claims submitted and making recommendations to the Court on the allowance and payment of claims.

91. The Receiver is authorized to make distributions of available funds in the receivership estate to the United States of up to \$14,207,517 without further order of this Court. The distributions need not be made in one lump sum payment but may be made over time as assets and funds become available for payment.

R. Miscellaneous provisions.

92. At the request of the Receiver, the Clerk of the Court is directed to provide certified copies of this Order or other orders of this Court to the Receiver at no cost to the Receiver.

93. If any persons subject to this Order fail to comply with the terms herein, the Receiver or counsel for the United States is permitted to initiate contempt proceedings.

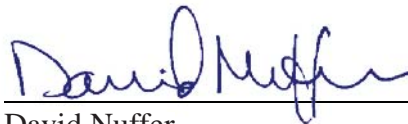
94. The Receiver and his Retained Personnel shall keep time records to support their fee applications. Time records must set forth in reasonable detail an appropriate narrative description of the services rendered along with the time spent on those services. The time records should be kept in a manner that enables the Receiver and his Retained Personnel to track time spent on specific litigation matters or other tasks related to the administering of the Receivership.

95. The Receiver shall retain all records relating to the Receivership for a period of not less than three years after the Receivership has been closed. The Receiver shall provide copies of any records, information, or documents to counsel for the United States if necessary for counsel's record-keeping obligations or other statutory and regulatory responsibilities and duties.

96. The Receiver is authorized to request a modification of this Order from this Court during the life of the receivership if the Receiver determines that a modification is necessary for the proper administration of the receivership estate.

Signed November 1, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**MEMORANDUM DECISION AND
ORDER ON RECEIVER’S MOTION
TO INCLUDE AFFILIATES AND
SUBSIDIARIES IN RECEIVERSHIP**

Case No. 2:15-cv-00828-DN

District Judge David Nuffer

R. Wayne Klein, the court-appointed receiver (“Receiver”),¹ filed a motion (the “Motion”)² to extend the receivership to thirteen entities affiliated with Defendants RaPower-3 LLC (“RaPower”), International Automated Systems Inc. (“IAS”), LTB1 LLC (“LTB1”), Neldon Johnson, and R. Gregory Shepard (collectively, the “Receivership Defendants”). Specifically, the Motion seeks to extend the receivership to the following (collectively, the “Affiliated Entities”):

1. Solco I, LLC (“Solco”);
2. XSun Energy, LLC (“XSun”);
3. Cobblestone Centre, LC (“Cobblestone”);

¹ See Corrected Receivership Order, [docket no. 491](#), filed November 1, 2018.

² Receiver’s Motion to Include Affiliates and Subsidiaries in the Receivership Estate (“Motion”), [docket no. 582](#), filed March 1, 2019; see Non-Parties Solco I, XSun Energy and Glenda Johnson’s Notice of Intent to File Opposition to Receiver’s Motion to Include Affiliates and Subsidiaries in the Receivership Estate, [docket no. 586](#), filed March 4, 2019; Response to Receiver’s Report and Recommendation and Motion to Include Affiliates and Subsidiaries in the Receivership Estate (“Response”), [docket no. 596](#), filed March 15, 2019; Neldon Johnson’s Opposition to the Receiver’s Report and Motion, [docket no. 597](#), filed March 18, 2019; Receiver’s Reply in Support of Its Motion to Include Affiliates and Subsidiaries in the Receivership Estate (“Reply”), [docket no. 602](#), filed March 29, 2019.

4. LTB O&M, LLC;
5. U-Check, Inc.;
6. DCL16BLT, Inc.;
7. DCL-16A, Inc.;
8. N.P. Johnson Family Limited Partnership (“NPJFLP”);
9. Solstice Enterprises, Inc. (“Solstice”);
10. Black Night Enterprises, Inc. (“Black Night”);
11. Starlight Holdings, Inc. (“Starlight”);
12. Shepard Energy; and
13. Shepard Global, Inc.

The Motion is based, in large measure, on the Receiver’s Report and Recommendation on Inclusion of Affiliates and Subsidiaries in Receivership Estate (the “R&R”).³ The R&R was required by Paragraph 5 of the Corrected Receivership Order. The assets of these entities were frozen by that same paragraph “for the purpose of permitting the Receiver to investigate the assets, property, property rights, and interests of the” Affiliated Entities “to determine whether the assets, property, property rights, or interests of the [Affiliated Entities] derive from the abusive solar energy scheme at issue in this case or from an unrelated business activity.”⁴ In the R&R, “[t]he Receiver recommends that the 12 affiliated entities identified in the [Corrected Receivership] Order, as well as one additional entity, U-Check, Inc., be included in the Receivership Estate as Entity Receivership Defendants.”⁵

³ Docket no. 581 (“R&R”), filed February 25, 2019.

⁴ Corrected Receivership Order, *supra* note 1, ¶ 5.

⁵ R&R, *supra* note 3, at 28-29, ep 31-32.

Each of the Affiliated Entities has received timely and sufficient notice of the Motion and been afforded an adequate opportunity to be heard with respect to it.⁶ Although Neldon Johnson and nonparties Glenda Johnson, XSun Energy, Solco, and Solstice filed responses opposing the Motion, they have not raised a genuine dispute as to any material fact set forth in support of the Motion.⁷ No other response has been filed in opposition to the Motion.

It is generally recognized that district courts have broad powers and wide discretion to determine relief in a receivership.⁸ “When a district court creates a receivership, its focus is to safeguard the assets, administer the property as suitable, and to assist the district court in achieving a final, equitable distribution of the assets if necessary.”⁹ To accomplish the purpose of the receivership, courts frequently include all subsidiaries and affiliates of receivership defendants in the receivership, regardless of where they may be located.¹⁰

⁶ See Reply, *supra* note 1, at 4-6.

⁷ See Response, *supra* note 2; Opposition, *supra* note 2. No other person, including R. Gregory Shepard, has filed anything in opposition to the Motion, and the time to do so has now expired.

⁸ *S.E.C. v. Vescor Capital Corp.*, 599 F.3d 1189, 1194 (10th Cir. 2010).

⁹ *Id.* (citation and internal quotation marks omitted).

¹⁰ See, e.g., *SEC v. Nationwide Automated Sys., Inc.*, No. CV-14-07249-SJO, 2014 WL 12599624, *5 (C.D. Cal. Nov. 10, 2014); *Orlowski v. Bates*, No. 2:11-cv-01396-JPM, 2014 WL 12771523, *1 (W.D. Tenn. July 28, 2014); *FTC v. Money Now Funding, LLC*, No. CV-13-01583-PHX, 2014 WL 11515024, *8 (D. Ariz. Apr. 28, 2014); *FTC v. Vacation Commc’ns Group, LLC*, No. 6:13-CV-789-ORL, 2013 WL 2468307, *7 (M.D. Fla. June 6, 2013); *SEC v. Small Bus. Capital Corp.*, No. 5:12-CV-03237-EJD, 2012 WL 12862153, *3 (N.D. Cal. June 26, 2012); *SEC v. Sunwest Mgmt., Inc.*, No. 09-6056-HO, 2009 WL 3245879, *2 (D. Or. Oct. 2, 2009); *FTC v. Direct Connection Consulting, Inc.*, No. 1:08-CV-1739, 2008 WL 11336186, *7 (N.D. Ga. May 14, 2008); *Commodity Futures Trading Comm’n v. Aurifex Commodities Research Co.*, No. 1:06-cv-166, 2007 WL 2481015, *1 (W.D. Mich. 2007); *Commodity Futures Trading Comm’n v. Wall Street Underground, Inc.*, No. Civ.A.03-2193-CM, 2004 WL 957852, *2 (D. Kan. Mar. 18, 2004); *FTC v. Sierra Pac. Mktg.*, No. CV-S-93-134-PMP, 1993 WL 78579, *6 (D. Nev. Feb. 22, 1993).

FACTUAL BASIS

The following facts are based on the evidence presented and existing record, including proof presented in hearings held April 26 and May 3, 2019.

1. For more than ten years, the Receivership Defendants promoted an abusive tax scheme centered on purported solar energy technology featuring “solar lenses” to customers across the United States. But the solar lenses were only the cover story for what the Receivership Defendants were really selling: unlawful tax deductions and credits. Their conduct, which is subject to penalty under the Internal Revenue Code, caused serious harm to the United States Treasury.¹¹ As a result, they have been enjoined from promoting their abusive solar energy scheme, ordered to disgorge their gross receipts, and required to turn over their assets and business operations to the Receiver.¹²

2. The whole purpose of RaPower, IAS, and LBT1 (collectively, the “Receivership Entities”) was to perpetrate a fraud to enable funding for Neldon Johnson. The same is true for other entities Johnson created, controls, and owns (either directly or indirectly), including Solco, XSun, Solstice,¹³ Cobblestone, LTB O&M, DCL16BLT, DCL-16A, NPJFLP, U-Check, Black Night, and Starlight. Johnson has commingled funds between these entities, used their accounts to pay personal expenses, and transferred Receivership Property to and through them in an

¹¹ Findings of Fact and Conclusions of Law, at 1, electronic page (“ep”) 6 (“FFCL”), [docket no. 467](#), filed October 4, 2018.

¹² See Memorandum Decision and Order Freezing Assets and to Appoint a Receiver, [docket no. 444](#), filed August 22, 2018.

¹³ Solco, XSun, and Solstice have each made an affirmative appearance in this case. See Response, *supra* note 2, at 1.

attempt to avoid creditors.¹⁴ (U-Check, which is not specifically named in the Corrected Receivership Order, is in possession of a Cessna twin-engine airplane, which may have significant value, and which Neldon Johnson owned and controls.)¹⁵

3. Each of the Affiliated Entities is a subsidiary or affiliated entity of Receivership Defendants¹⁶ and has close associations with the Receivership Entities.¹⁷ In many cases, the Affiliated Entities and Receivership Entities have common officers, directors, members, and managers. Their corporate purposes are similar. And there have been numerous and substantial financial transactions between them.¹⁸

4. The failure of the Receivership Defendants and Affiliated Entities to cooperate or provide records,¹⁹ together with the evidence the Receiver has obtained from financial institutions, show that the Receivership Defendants and Affiliated Entities have engaged in transactions without objective economic justification or compliance with legal formalities, while concealing assets and withholding records from the Receiver.²⁰

¹⁴ FFCL, *supra* note 11, at 128, ep 133; *id.* ¶¶ 17 n.26, 41, 284; R&R, *supra* note 3, §§ B.4-5, B.7, B.10-13, F.4-5, F.7, F.10-13; *id.* at 20, 36-37, ep 23, 39-40. The term “Receivership Property” has the same meaning in this Memorandum Decision and Order as it does in the Corrected Receivership Order.

¹⁵ R&R, *supra* note 3, at 35, ep 38.

¹⁶ See Corrected Receivership Order, *supra* note 1, ¶¶ 2, 5.

¹⁷ R&R, *supra* note 3, at 35, ep 38.

¹⁸ *Id.*

¹⁹ *Id.* at 1-3, ep 4-6; see also United States’ Motion to Show Cause Why Neldon Johnson, R. Gregory Shepard, Glenda Johnson, LaGrand Johnson, and Randale Johnson Should Not Be Held in Civil Contempt of Court for Violating the Corrected Receivership Order, [docket no. 559](#), filed January 29, 2019; Receiver’s Accounting, Recommendation on Publicly-Traded Status of International Automated Systems, and Liquidation Plan, [docket no. 552](#), filed December 31, 2018; Receiver’s Initial Quarterly Status Report, [docket no. 557](#), filed January 28, 2019; Receiver’s Second Quarterly Status Report, [docket no. 608](#), filed April 15, 2019; and transcripts of proceedings April 26 and May 3, 2019.

²⁰ R&R, *supra* note 3, at 37-48, ep 40-51.

5. In many instances, the Affiliated Entities' only assets are tied to the Receivership Defendants. In each instance, the assets appear to have been transferred to the Affiliated Entities for the purpose of defrauding creditors. To prevent further dissipation of Receivership Property, it is necessary to put the Affiliated Entities under the Receiver's control.²¹

6. Based on the Receiver's investigation of the Affiliated Entities, the Receiver has recommended that the receivership be extended to include each of the Affiliated Entities.²²

7. To fulfil the purposes of the receivership, safeguard receivership assets, administer receivership property as suitable, and achieve a final and equitable distribution of receivership assets, it is necessary to extend the receivership to include the Affiliated Entities.²³

8. Although many of the Affiliated Entities are now defunct and without assets, bringing them into the receivership estate is necessary to prevent their use to perpetuate further fraud in contravention of the receivership's purposes.²⁴

ORDER

THEREFORE, IT IS HEREBY ORDERED that:

1. This court takes exclusive jurisdiction and possession of all assets, of whatever kind and wherever situated, of each of the Affiliated Entities.

2. The Affiliated Entities are hereby made part of the existing receivership estate, which is being administered by court-appointed receiver Wayne Klein, in accordance with the Corrected Receivership Order.

²¹ *Id.* at 35-36, ep 38-39.

²² *Id.* at 48-49, ep 51-52.

²³ See *Vescor*, 599 F.3d at 1194.

²⁴ R&R, *supra* note 3, at 36, ep 39.

3. The “Asset Freeze” set forth in the Corrected Receivership Order shall continue to include and apply to the Affiliated Entities.

4. The directors, officers, managers, employees, trustees, investment advisors, accountants, attorneys, and other agents of the Affiliated Entities are hereby dismissed, and the powers of any general partners, directors, or managers are hereby suspended. Such persons shall have no authority with respect to the Affiliated Entities’ operations or assets, except to the extent as may hereafter be expressly granted by the Receiver or the court.

5. No person holding or claiming any position of any sort with any of the Affiliated Entities shall possess any authority to act by or on behalf of any of the Affiliated Entities.

6. The Receiver shall have all powers, authorities, rights, and privileges heretofore possessed by the owners, members, shareholders, officers, directors, managers, and general and limited partners of the Affiliated Entities under applicable state and federal law, by the governing charters, bylaws, articles, or agreements in addition to all powers and authority of a receiver at equity.

7. In carrying out his responsibilities as receiver, the Receiver shall have all control over assets, books, records, and accounts of Affiliated Entities and all powers and rights granted to the Receiver in the Corrected Receivership Order.

8. The Receivership Defendants, their subsidiaries, any affiliated entities, any affiliated individuals (including spouses and other family members), and the past and present officers, directors, agents, managers, servants, employees, attorneys, accountants, general and limited partners, trustees, and any person acting for or on behalf of the Affiliated Entities, shall cooperate with and assist the Receiver in the performance of his duties and obligations relating to

the Affiliated Entities to the same extent as required in the Corrected Receivership Order with respect to the Receivership Defendants.

9. All persons having control, custody, or possession of any property or records of Affiliated Entities are hereby ordered to turn such property or records over to the Receiver to the same extent as required by the Corrected Receivership Order with respect to Receivership Defendants.

10. As the holder of all ownership and management interests of the Affiliated Entities, the Receiver is granted power and authority to transfer all assets (including intellectual property and real estate) owned or controlled by foreign-based entities to the United States and to liquidate or abandon all foreign entities created by Receivership Defendants.

11. The stay of litigation set forth in the Corrected Receivership Order shall apply to the Affiliated Entities to the same extent as it does to the Receivership Entities.

12. All other provisions of the Corrected Receivership Order shall apply to the Affiliated Entities, as they do to the Receivership Entities, to the extent necessary and appropriate to allow the Receiver to accomplish his duties under the Corrected Receivership Order.

13. Any person who may have an objection to this Memorandum Decision and Order, whether in whole or in part, must file such objection in this case within 21 days of receiving actual notice of this Memorandum Decision and Order or else such objection shall be considered waived.

Signed May 3, 2019.

BY THE COURT:



David Nuffer
United States District Judge

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Attorneys for XSUN ENERGY, LLC

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, and NELDON JOHNSON,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>XSUN ENERGY, LLC’S OBJECTION TO ORDER ON MEMORANDUM AND DECISION AND ORDER ON RECEIVER’S MOTION TO INCLUDE AFFILIATES AND SUBSIDIARIES IN RECIEVERSHIP (ECF 636)</p> <p>Judge David Nuffer</p>
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COMES NOW XSun Energy, LLC (“XSun”) hereby objects to this Court’s Order On Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership because the Order validates Plaintiff’s willful strategy to exclude XSun as a party defendant at trial to deprive it of the opportunity to present a plenary defense based on its unique circumstances.

I. The Court's Order Violates Due Process By Validating a Trial Strategy that Deprived XSun of a Trial on the Merits Prior to Seizure.

a. XSun's Activities

XSun is a Utah limited liability company. It was formed in April, 2011. Its sole member is Solstice Enterprises, a foreign entity. This is not merely an allegation, but the facts known to the Receiver. It sold solar lenses. The sales of those lenses occurred mainly in 2011 and 2012.

In 2011, like RaPower-3, XSun Energy had its own Zions Bank accounts (Accounts ending in 3293 and 6920).¹ By July, 2012, those accounts had more than \$650,000 in them. Limited amounts of those funds were used to pay employees. \$2,125,910 was *not* reported as income for Neldon and Glenda Johnson on his taxes. Indeed, XSun's 2012 tax return reported income of \$18,879.² The funds XSun received were from the sale of lenses that XSun, not RaPower3, sold.³

XSun retained Kenneth Birrell and provided Mr. Birrell with drafts for all the transaction documents prior to Mr. Birrell's authoring of the opinion letter.⁴ Following this email, Mr. Birrell's law firm, Kirton & McConkie sent a legal services agreement for tax planning to XSun.⁵ Kirton & McConkie then invoiced XSun for tax services rendered.⁶

Like Solco, XSun's activities have always been known to Plaintiff prior to this case commencing. Indeed, the Plaintiff relied upon opinion letters prepared for XSun by attorneys in its case against other Defendants for whom no written tax advice had been obtained. More than

¹ Despite having received bank statements for this account, for some unknown reason, the Receiver has failed to identify this to the Court.

² Its 2012 Tax Return is in the Receiver's possession.

³ See Checks written to XSun Energy, attached as Exhibit 1.

⁴ See Correspondence from Bryan Boland to Ken Birrell, sent August 15, 2018, attached as Exhibit 2.

⁵ See letter from Ken Birrell to XSun Energy, LLC, dated Aug. 24, 2012, attached as Exhibit 3.

⁶ See K&M invoices to XSun Energy LLC, attached as Exhibit 4.

half a day was spent examining Mr. Birrell, the attorney who drafted those letters. The Court received that evidence and relied upon the testimony of that witness to make its Findings of Fact and Conclusions of Law. Plaintiff deliberately chose to not name XSun as a party because XSun was differently situated from the other Defendants in this case. Judgment was not entered against XSun. XSun has never been served as a party and has never been allowed any opportunity to defend itself in this case.

XSun did not have a mass-marketing program. It did not have a website. It did not participate in the later-developed Greg Shepherd multi-level marketing program. Nor were any of the XSun purchasers examined during the trial. No facts about the purchasers were provided to this Court. Nor has any proof been introduced to determine whether XSun purchasers qualified for or ever claimed any tax benefits.

b. The Order validates the Plaintiff's unconstitutional trial strategy which deprived XSun of a trial on the merits prior to seizure of all its assets.

The Court's order ignores XSun's fundamental rights of due process, and ignores the government's strategic decision when they filed this case to exclude XSun as a defendant, despite knowing of it and using as exhibits documents written for/by it. The strategy skips any claim or finding of alter ego or subsidiary and denied it the opportunity to defend against the government's claim. The government and Receiver ask the Court to leap to the conclusion that these unnamed parties are equally liable for the judgment entered against those named. Such a leap violates due process. "Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified."⁷ It is equally fundamental that the right to notice

⁷ Id. at 81 (citing *Baldwin v. Hale*, 1 Wall. 223, 233. See *Windsor v. McVeigh*, 93 U.S. 274; *Hovey v. Elliott*, 167 U.S. 409; *Grannis v. Ordean*, 234 U.S. 385.)

and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner."⁸

In *Fuentes*, the primary question was whether certain state statutes, including the Florida and Pennsylvania replevin statutes, were constitutionally defective in failing to provide for hearings "at a meaningful time."⁹ Neither the Florida nor the Pennsylvania statute provided for notice or an opportunity to be heard *before* the seizure. The issue is whether procedural due process in the context of these cases requires an opportunity for a hearing *before* the State authorizes its agents to seize property in the possession of a person upon the application of another.¹⁰

The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment -- to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party. So viewed, the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference. "If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be awarded to him for the wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process has already occurred." This Court has not ... embraced the general proposition that a wrong may be done if it can be undone." *Id.* (citing *Lynch v. Household Finance Corp.*, 405 U.S. 538, 552. *Stanley v. Illinois*, 405 U.S. 645, 647.)

⁸ *Id.* (citing *Armstrong v. Manzo*, 380 U.S. 545, 552.)

⁹ *Id.*

¹⁰ *Id.*

This is not a novel principle of constitutional law. The right to a prior hearing has long been recognized by this Court under the [Fourteenth](#) and [Fifth Amendments](#). Although the Court has held that due process tolerates variances in the *form* of a hearing "appropriate to the nature of the case," *Mullane v. Central Hanover Tr. Co.*, 339 U.S. 306, 313, and "depending upon the importance of the interests involved and the nature of the subsequent proceedings [if any]," *Boddie v. Connecticut*, 401 U.S. 371, 378, the Court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes effect.¹¹

In past briefings, Plaintiff has argued that because Defendants have previously argued that XSun Energy should not be subject to the asset freeze, that these non-parties have fully received all required due process. Plaintiff's argument misses both critical steps. The asset freeze imposes a penalty without XSun Energy having been afforded the notice of a complaint against it, an opportunity to answer or move to dismiss, discovery, motion practice, or a trial to hear the claims against it or an opportunity to prove its claimed defenses before a fact finder. This is all the more alarming because XSun was known to the Plaintiff long before this matter was filed. The Plaintiff used exhibits throughout discovery and trial written for/by XSun, but deliberately chose not to join it as party defendants in this case.

¹¹ See e.g. *Bell v. Burson*, 402 U.S. 535, 542; *Wisconsin v. Constantineau*, 400 U.S. 433, 437; *Goldberg v. Kelly*, 397 U.S. 254; *Armstrong v. Manzo*, 380 U.S., at 551; *Mullane v. Central Hanover Tr. Co.*, supra, at 313; *Opp Cotton Mills v. Administrator*, 312 U.S. 126, 152-153; *United States v. Illinois Central R. Co.*, 291 U.S. 457, 463; *Londoner v. City & County of Denver*, 210 U.S. 373, 385-386. See *In re Ruffalo*, 390 U.S. 544, 550-551. "That the hearing required by due process is subject to waiver, and is not fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest, except for extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event." *Boddie v. Connecticut*, supra, at 378-379 (emphasis in original).

To date, Plaintiff has yet to give an explanation on why these XSun was excluded, and the Court's order fails to address this procedural shortcoming.¹² And since no explanation was given, XSun is entitled to the benefit of an adverse inference that the Government intentionally and strategically omitted XSun to avoid facing the obvious defenses these parties would assert. XSun sought, obtained and relied on advice letters from legal counsel.¹³ Likely because the other named Defendants were not the recipients of the legal advice, Plaintiff intentionally chose to omit XSun as a party. Moreover, neither of these entities ought to be affected by orders entered against others who were afforded the opportunity to participate as parties to the case.

In *United States v. Mesadieu*, 108 F.Supp 3d. 1113 (M.D. Fla. 2016), the trial court questioned whether it had authority to disgorge revenue "obtained by Mesadieu's companies – entities that are not before the Court."¹⁴ The Government urged the trial court to include the non-parties alleging that "Mesadieu is the sole owner of the companies and uses his companies as a vehicle for fraud."¹⁵ But the Government did not join the companies as a defendant."¹⁶ Like *Mesadieu*, the Government failed to join both Solco I and XSun, yet sought disgorgement against them under the same reasoning in *Mesadieu* (i.e., alleging that the named defendants used the companies as a vehicle of fraud.) Fortunately, this Court properly refused to order disgorgement against these entities in its final order.¹⁷

¹² See *United States v. Mesadieu*, 180 F. Supp. 3d 1113, 1123 (M.D. Fla. 2016) (Because the United States failed to join defendant's companies, Court questioned whether it would have had jurisdiction to order disgorgement of revenue obtained by defendant's non-party companies and entities that were not before the court.); see also *Bolsa Res., Inc. v. AGC Res., Inc.*, 2013 U.S. Dist. LEXIS 137604, *7 (Colo.) (District court declined to order non-party corporations to disgorge stock to satisfy judgment.)

¹³ See XXXXX, attached as Exhibit 1.

¹⁴ *Mesadieu*, 180 F. Supp. 3d at 1123.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ ECF [467](#) at pg. 149.

This Court's respect for due process was short-lived, however, as now the Court is validating Plaintiff's end run around affording XSun due process by trial. For example, XSun was the client referred to in the "McConkie Memorandum," placing XSun in a stronger position to claim reliance on advice of counsel as a defense. Both XSun and Solco had written legal advice and followed it. As such, XSun was situated differently than any of the party defendants.

Additionally, including XSun goes well beyond the asset freeze. Now that XSun is included as a *receivership* entity, the Receiver will take complete "custody, control, and possession of all assets, bank accounts or other financial accounts, contents of safe deposits boxes, books, records, and all other documents or instruments"¹⁸ allowing the receiver to "direct and develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property"¹⁹ **without a showing that the property belonging to XSun are ill-gotten gains subject to disgorgement.** Indeed, the Receiver's proposed order states the following:

All other provisions of the Corrected Receivership Order shall apply to the Affiliate Receivership Entities to the same extent as Receivership Entities as necessary and appropriate to allow the Receiver to accomplish the duties required of him in the Corrected Receivership Order.²⁰

This vitiates any right XSun has to a fair, impartial and complete opportunity to defend itself. Finally, XSun's attorneys will be immediately terminated, leaving XSun without legal counsel to contest the Receivership's authority to include it in the Receivership Estate, including,

¹⁸ EFC 444 at pg. 7, ¶ 15.

¹⁹ Id. at ¶ 83.

²⁰ See Proposed Order at ¶ 12.

but not limited to asserting a claim of laches against the Government's effort through the receiver to include it now, rather than affording it a trial on the merits of its available defenses.^{21 22 23}

In sum, without due process, a claim should not proceed against XSun. In *United States v. 51 Pieces of Real Property Rosell*, N.M., 17 F.3d 1306 (10th Cir. 1994), relied upon by Plaintiff, an action was initiated, the complaining party was named as a defendant, and plaintiff attempted to have that party served a complaint before it pursued default and seizure of an asset. *Id.* Although proceeding under a federal forfeiture statute which was specifically void of any due process requirements, the Court recognized that “due process requires that a person be given notice and an opportunity for a hearing before being deprived of a property interest.”²⁴ No such hearing has ever taken place in this case.

XSun's assets (and others similarly situated) have already been frozen by this Court's order and then confiscated by the Receiver without any proof justifying these draconian steps to occur. Now, the Court is taking the further leap in finding XSun's assets to be the same as the party Defendants – essentially making it liable for another entity's actions. The Receiver's request goes too far.

²¹ *United States v. Rodriguez-Aguirre*, 264 F.3d 1195, 1208 (10th Cir. 2001) “[I]n order to prove the affirmative defense of laches, the defendant must demonstrate that there has been an unreasonable delay in asserting the claim and that the defendant was materially prejudiced by the delay.” *Id.* (emphasis added).

²² Further, assuming there is a reason to allow even temporarily some freeze, it should not in any event affect a legal retainer required to pay legal counsel to defend these entities and the Defendants for which they intended to provide assistance. If Defendants succeed on appeal, both Solco I and XSun Energy can never face a claim against them. Therefore, they are the direct beneficiaries of the prophylactic effect of Defendants' successful appeal.

²³ See *infra* at II and III.

²⁴ *Id.* (citing *Fuentes v. Shevin*, 407 U.S. 67, 81-82, 32 L. Ed. 2d 556, 92 S. Ct. 1983 (1972)).

DATED this 23rd day of May, 2019.

NELSON SNUFFER DAHLE & POULSEN

/s/ Denver C. Snuffer, Jr.
Denver C. Snuffer, Jr.
Steven R. Paul
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly filed with the court using the court's CM/ECF filing service. I further certify that a true and correct copy of the foregoing was sent via email to the following pro se parties as indicated.

Neldon Johnson glendaejohnson@hotmail.com

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Attorneys for SOLCO I, LLC

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, and NELDON JOHNSON,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>SOLCO I, LLC’S OBJECTION TO ORDER ON MEMORANDUM AND DECISION AND ORDER ON RECEIVER’S MOTION TO INCLUDE AFFILIATES AND SUBSIDIARIES IN RECIEVERSHIP (ECF 636)</p> <p>Judge David Nuffer</p>
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COMES NOW Solco I, LLC (“Solco”) hereby objects to this Court’s Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership because the Order validates Plaintiff’s willful avoidance of including Solco as a party defendant at trial to deprive it of the opportunity to present a plenary defense based on its unique circumstances.

I. The Court’s Order Violates Due Process by Validating a Trial Strategy that Deprived Solco I of a Trial on the Merits Prior to Seizure.

a. Solco’s Activities

Solco is a Utah limited liability company. It was organized on December 13, 2010. Its status became delinquent in January of this year because its assets are frozen. Solco did business

selling lenses prior to 2016. All of its sales occurred prior to the trial of this case, and a great majority of them occurred prior to the filing of the Complaint in this case.

Solco's activities were known to Plaintiff well before the time of trial. Indeed, the Plaintiff relied upon opinion letters prepared for Solco by attorneys in its presentation of its case.¹ More than half a day was spent examining Kenneth Birrell, the attorney who drafted those opinion letters. The Court received that evidence and relied upon the testimony of that witness to make its Findings of Fact and Conclusions of Law. Moreover, Solco relied on the documents Mr. Birrell authored for Solco's benefit.² Importantly, the purchase agreement attached hereto was between Solco and a business entity incorporated as a C-corporation, to which was the very type of business entity Birrell counselled that the tax advice provided applied.³ This transaction alone accounted for \$1,000,000 in sales.⁴

Yet Plaintiff tactically chose to exclude Solco as a party. Judgment was not entered against Solco. Solco has never been served as a party and has never been allowed any opportunity to defend itself in this case. The Court has not established jurisdiction over Solco. Nonetheless, the Court has extended jurisdiction, without even the allegation, let alone proof, of a claim of alter ego or subsidiary-status to freeze the assets of this company. Now, the Court has validated Plaintiff's unconstitutional trial strategy by including Solco at this post-trial juncture as though it were a Defendant all along in this case. In doing so, the Receiver sheds his responsibility to collect on

¹ See Opinion Letter, attached as Exhibit 1.

² See Email from K. Birrell dated January 14, 2013 RE: Generlized [sic] Documents, attached as Exhibit 2.

³ See Escrow Agreement, attached as Exhibit 3.

⁴ *Id.*

the judgment entered against the named Defendants, and advocates for the Plaintiff against an entity it deliberately chose not to name as a party.

b. The Order validates the Plaintiff's unconstitutional trial strategy which deprived Solco of a trial on the merits prior to seizure of all its assets.

"Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified."⁵ It is equally fundamental that the right to notice and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner."⁶ The Court's order ignores Solco's the fundamental rights of due process, and ignores the government's decision when they elected to not include Solco as a defendant despite knowing of it and using as exhibits documents written for/by it, skip any claim or finding of alter ego or subsidiary or otherwise give it the opportunity to defend against that claim, and leap to the conclusion that these unnamed parties are equally liable for the judgment entered against those named. Such a leap violates due process.

In *Fuentes*, the primary question was whether certain state statutes, including the Florida and Pennsylvania replevin statutes, were constitutionally defective in failing to provide for hearings "at a meaningful time."⁷ Neither the Florida nor the Pennsylvania statute provided for notice or an opportunity to be heard *before* the seizure. The issue is whether procedural due process in the context of these cases requires an opportunity for a hearing *before* the State authorizes its agents to seize property in the possession of a person upon the application of another.⁸

⁵ *Id.* at 81 (citing *Baldwin v. Hale*, 1 Wall. 223, 233. See *Windsor v. McVeigh*, 93 U.S. 274; *Hovey v. Elliott*, 167 U.S. 409; *Grannis v. Ordean*, 234 U.S. 385.)

⁶ *Id.* (citing *Armstrong v. Manzo*, 380 U.S. 545, 552.)

⁷ *Id.*

⁸ *Id.*

The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment -- to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party. So viewed, the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference. "If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be awarded to him for the wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process has already occurred." This Court has not ... embraced the general proposition that a wrong may be done if it can be undone." *Id.* (citing *Lynch v. Household Finance Corp.*, 405 U.S. 538, 552. *Stanley v. Illinois*, 405 U.S. 645, 647.)

This is not a novel principle of constitutional law. The right to a prior hearing has long been recognized by this Court under the [Fourteenth](#) and [Fifth Amendments](#). Although the Court has held that due process tolerates variances in the *form* of a hearing "appropriate to the nature of the case," *Mullane v. Central Hanover Tr. Co.*, 339 U.S. 306, 313, and "depending upon the importance of the interests involved and the nature of the subsequent proceedings [if any]," *Boddie v. Connecticut*, 401 U.S. 371, 378, the Court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes effect.⁹

⁹ See e.g. *Bell v. Burson*, 402 U.S. 535, 542; *Wisconsin v. Constantineau*, 400 U.S. 433, 437; *Goldberg v. Kelly*, 397 U.S. 254; *Armstrong v. Manzo*, 380 U.S., at 551; *Mullane v. Central Hanover Tr. Co.*, supra, at 313; *Opp Cotton Mills v. Administrator*, 312 U.S. 126, 152-153; *United States v. Illinois Central R. Co.*, 291 U.S. 457, 463; *Londoner v. City & County of Denver*, 210 U.S. 373, 385-386. See *In re Ruffalo*, 390 U.S. 544, 550-551. "That the hearing required by due process is subject to waiver, and is not fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest, except for extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event." *Boddie v. Connecticut*, supra, at 378-379 (emphasis in original).

In past briefings, Plaintiff has argued that because Defendants have argued Solco should not be subject to the asset freeze, that it has fully received all required due process. The Plaintiff's argument misses both critical steps. The asset freeze imposes a penalty without Solco having been afforded the notice of a complaint against it, an opportunity to answer or move to dismiss, discovery, motion practice, or a trial to hear the claims against it or an opportunity to prove its claimed defenses before a fact finder. This is all the more alarming because Solco was known to the Plaintiff long before this matter was filed. The Plaintiff used exhibits throughout discovery and trial written for/by Solco, but deliberately chose not to join it as a defendant in this case.

To date, Plaintiff has yet to give an explanation why Solco was excluded, and the Court's order fails to address this procedural shortcoming.¹⁰ Since no explanation was given, Solco is entitled to the benefit of an adverse inference that the Government intentionally and strategically omitted Solco to avoid facing the obvious defenses it would assert. Solco sought, obtained and relied on advice letters from legal counsel.¹¹ Likely because the other named Defendants were not the recipients of the legal advice, the Plaintiff intentionally chose to omit Solco as a party defendant in its case-in-chief.

In *United States v. Mesadieu*, 108 F.Supp 3d. 1113 (M.D. Fla. 2016), the trial court questioned whether it had authority to disgorge revenue "obtained by Mesadieu's companies – entities that are not before the Court."¹² The Government urged the trial court to include the non-

¹⁰ See *United States v. Mesadieu*, 180 F. Supp. 3d 1113, 1123 (M.D. Fla. 2016) (Because the United States failed to join defendant's companies, Court questioned whether it would have had jurisdiction to order disgorgement of revenue obtained by defendant's non-party companies and entities that were not before the court.); see also *Bolsa Res., Inc. v. AGC Res., Inc.*, 2013 U.S. Dist. LEXIS 137604, *7 (Colo.) (District court declined to order non-party corporations to disgorge stock to satisfy judgment.)

¹¹ See XXXXX, attached as Exhibit 1.

¹² *Mesadieu*, 180 F. Supp. 3d at 1123.

parties alleging that “Mesadieu is the sole owner of the companies and uses his companies as a vehicle for fraud.”¹³ But the Government did not join the companies as a defendant.”¹⁴ Like *Mesadieu*, the Government failed to join non-entities Solco I and XSun, yet sought disgorgement against it under the same reasoning in *Mesadieu* (i.e., alleging that the named defendants used the companies as a vehicle of fraud.) Fortunately, this Court properly refused to order disgorgement against these entities in its final order.¹⁵

That respect for due process was short-lived, however, as now the Court is validating Plaintiff’s unconstitutional trial strategy by depriving Solco due process by trial. For example, Solco was the client referred to in the “McConkie Memorandum,” placing Solco in a stronger position to assert a reliance of counsel defense. This entity had written legal advice and followed it. Accordingly, Solco was situated differently than any of the party defendants.

Additionally, inclusion of Solco goes well beyond the asset freeze. Now that Solco is to be included as a receivership entity, the Receiver will take complete “custody, control, and possession of all assets, bank accounts or other financial accounts, contents of safe deposits boxes, books, records, and all other documents or instruments”¹⁶ allowing the receiver to “direct and develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property”¹⁷ **without a showing that the property belonging to Solco are ill-gotten gains subject to disgorgement.** Indeed, the Receiver’s proposed order states the following:

¹³ Id.

¹⁴ Id.

¹⁵ ECF [467](#) at pg. 149.

¹⁶ EFC [444](#) at pg. 7, ¶ 15.

¹⁷ Id. at ¶ 83.

All other provisions of the Corrected Receivership Order shall apply to the Affiliate Receivership Entities to the same extent as Receivership Entities as necessary and appropriate to allow the Receiver to accomplish the duties required of him in the Corrected Receivership Order.¹⁸

Finally, Solco's attorneys will be immediately terminated, leaving Solco without legal counsel to contest the Receivership's authority to include it in the Receivership Estate, including, but not limited to asserting a claim of laches against the Government's effort through the receiver to now include it rather than affording it a trial on the merits of Solco's claimed defenses.^{19 20 21}

In sum, without due process, a claim should not proceed against Solco. In *United States v. 51 Pieces of Real Property Rosell*, N.M., 17 F.3d 1306 (10th Cir. 1994), relied upon by Plaintiff, an action was initiated, the complaining party was named as a defendant and plaintiff attempted to have that party served a complaint before it pursued default and seizure of an asset. *Id.* Although proceeding under a federal forfeiture statute which was specifically void of any due process requirements, the Court recognized that "due process requires that a person be given notice and an opportunity for a hearing before being deprived of a property interest."²² No such hearing has ever taken place in this case.

Solco's assets (and others similarly situated) have already been frozen by this Court's order and then confiscated by the Receiver without any proof justifying these draconian steps to occur. Now, the Court is taking the further leap in finding Solco's assets to be the same as the party

¹⁸ See Proposed Order at ¶ 12.

¹⁹ *United States v. Rodriguez-Aguirre*, 264 F.3d 1195, 1208 (10th Cir. 2001) "[I]n order to prove the affirmative defense of laches, the defendant must demonstrate that there has been an unreasonable delay in asserting the claim and that the defendant was materially prejudiced by the delay." *Id.* (emphasis added).

²⁰ Further, assuming there is a reason to allow even temporarily some freeze, it should not in any event affect a legal retainer required to pay legal counsel to defend these entities and the Defendants for which they intended to provide assistance. If Defendants succeed on appeal, both Solco I and XSun Energy can never face a claim against them. Therefore, they are the direct beneficiaries of the prophylactic effect of Defendants' successful appeal.

²¹ See *infra* at II and III.

²² *Id.* (citing *Fuentes v. Shevin*, 407 U.S. 67, 81-82, 32 L. Ed. 2d 556, 92 S. Ct. 1983 (1972)).

Defendants – essentially making it liable for another entity’s actions. The Receiver’s request goes too far.

DATED this 23rd day of May, 2019.

NELSON SNUFFER DAHLE & POULSEN

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Attorneys for Solco I, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly filed with the court using the court’s CM/ECF filing service. I further certify that a true and correct copy of the foregoing was sent via email to the following pro se parties as indicated.

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF UTAH, CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, and NELDON JOHNSON,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>SOLSTICE ENTERPRISES, INC., BLACK NIGHT ENTERPRISES, INC., STARLIGHT HOLDINGS, INC., N.P. JOHNSON FAMILY LIMITED PARTNERSHIP’S OBJECTION TO ORDER ON MEMORANDUM AND DECISION AND ORDER ON RECEIVER’S MOTION TO INCLUDE AFFILIATES AND SUBSIDIARIES IN RECIEVERSHIP (ECF 636)</p> <p>Judge David Nuffer</p>
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COME NOW Solstice Enterprises, Inc., Inc., Black Night Enterprises, Inc., Starlight Holdings, Inc., and N.P. Johnson Family Limited Partnership (“Solstice, et. al.”) and hereby object to this Court’s Order On Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership because the Order deprives them of the opportunity to present a plenary defense based on their unique circumstances.

I. The Court’s Order Violates Due Process.

Solstice, et. al. are foreign entities organized in another country, none of which were or are under the control or ownership of Neldon P. Johnson. The only exception is the N.P. Johnson Family Limited Partnership, in which the minor beneficial interest Neldon Johnson once had was transferred many years ago in connection with a bankruptcy filing, and his beneficial interest was lost. None of these entities have funds that originated with RaPower-3 or any of the other Defendants. If the Receiver were able to show that something was transferred to them by RaPower-3, they should be given the opportunity to return whatever was transferred, rather than to be taken wholesale into a Receivership without any opportunity to defend. Neldon Johnson did and does not own or control these entities. Any failure or refusal by Neldon Johnson is not the failure or refusal of these other parties.

"Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified."¹ It is equally fundamental that the right to notice and an opportunity to be heard "must be granted at a meaningful time and in a meaningful manner."² The Court's order ignores Solstice, et. al.'s fundamental rights of due process, skips any claim or finding of alter ego or opportunity to defend against that claim, and leaps to the conclusion that these unnamed parties are equally liable for the judgment entered against those named. Such a leap violates due process.

In *Fuentes*, the primary question was whether certain state statutes, including the Florida and Pennsylvania replevin statutes, were constitutionally defective in failing to provide for

¹ Id. at 81 (citing *Baldwin v. Hale*, 1 Wall. 223, 233. See *Windsor v. McVeigh*, 93 U.S. 274; *Hovey v. Elliott*, 167 U.S. 409; *Grannis v. Ordean*, 234 U.S. 385.)

² Id. (citing *Armstrong v. Manzo*, 380 U.S. 545, 552.)

hearings "at a meaningful time."³ Neither the Florida nor the Pennsylvania statute provided for notice or an opportunity to be heard *before* the seizure. The issue is whether procedural due process in the context of these cases requires an opportunity for a hearing *before* the State authorizes its agents to seize property in the possession of a person upon the application of another.⁴

The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment -- to minimize substantively unfair or mistaken deprivations of property, a danger that is especially great when the State seizes goods simply upon the application of and for the benefit of a private party. So viewed, the prohibition against the deprivation of property without due process of law reflects the high value, embedded in our constitutional and political history, that we place on a person's right to enjoy what is his, free of governmental interference. "If the right to notice and a hearing is to serve its full purpose, then, it is clear that it must be granted at a time when the deprivation can still be prevented. At a later hearing, an individual's possessions can be returned to him if they were unfairly or mistakenly taken in the first place. Damages may even be awarded to him for the wrongful deprivation. But no later hearing and no damage award can undo the fact that the arbitrary taking that was subject to the right of procedural due process has already occurred." This Court has not ... embraced the general proposition that a wrong may be done if it can be undone." *Id.* (citing *Lynch v. Household Finance Corp.*, 405 U.S. 538, 552. *Stanley v. Illinois*, 405 U.S. 645, 647.)

This is not a novel principle of constitutional law. The right to a prior hearing has long been recognized by this Court under the [Fourteenth](#) and [Fifth Amendments](#). Although the Court has held that due process tolerates variances in the *form* of a hearing "appropriate to the nature of the case," *Mullane v. Central Hanover Tr. Co.*, 339 U.S. 306, 313, and "depending upon the importance of the interests involved and the nature of the subsequent proceedings [if

³ *Id.*

⁴ *Id.*

any]," *Boddie v. Connecticut*, 401 U.S. 371, 378, the Court has traditionally insisted that, whatever its form, opportunity for that hearing must be provided before the deprivation at issue takes effect.⁵

In past briefings, Plaintiff has argued that because Defendants have argued Solstice, et. al. should not be subject to the asset freeze, that it has fully received all required due process. The Plaintiff's argument misses both critical steps. The asset freeze imposes a penalty without Solstice, et. al. having been afforded the notice of a complaint against them, an opportunity to answer or move to dismiss, discovery, motion practice, or a trial to hear the claims against them or an opportunity to prove their claimed defenses before a fact finder.

In *United States v. Mesadieu*, 108 F.Supp 3d. 1113 (M.D. Fla. 2016), the trial court questioned whether it had authority to disgorge revenue "obtained by Mesadieu's companies – entities that are not before the Court."⁶ The Government urged the trial court to include the non-parties alleging that "Mesadieu is the sole owner of the companies and uses his companies as a vehicle for fraud."⁷ But the Government did not join the companies as a defendant.⁸ Like *Mesadieu*, the Government failed to join non-entities Solstice, et. al. yet sought disgorgement against them under the same reasoning in *Mesadieu* (i.e., alleging that the named defendants used

⁵ See e.g. *Bell v. Burson*, 402 U.S. 535, 542; *Wisconsin v. Constantineau*, 400 U.S. 433, 437; *Goldberg v. Kelly*, 397 U.S. 254; *Armstrong v. Manzo*, 380 U.S., at 551; *Mullane v. Central Hanover Tr. Co.*, supra, at 313; *Opp Cotton Mills v. Administrator*, 312 U.S. 126, 152-153; *United States v. Illinois Central R. Co.*, 291 U.S. 457, 463; *Londoner v. City & County of Denver*, 210 U.S. 373, 385-386. See *In re Ruffalo*, 390 U.S. 544, 550-551. "That the hearing required by due process is subject to waiver, and is not fixed in form does not affect its root requirement that an individual be given an opportunity for a hearing *before* he is deprived of any significant property interest, except for extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event." *Boddie v. Connecticut*, supra, at 378-379 (emphasis in original).

⁶ *Mesadieu*, 180 F. Supp. 3d at 1123.

⁷ Id.

⁸ Id.

the companies as a vehicle of fraud.) Fortunately, this Court properly refused to order disgorgement against these entities in its final order.⁹

That respect for due process was short-lived, however, as now the Court is validating Plaintiff's unconstitutional strategy by depriving Solstice, et. al. due process by trial. The failure, if there was one, of Mr. Johnson to provide documents for non-parties over which he had no control should not result in any "negative inference" against companies who are owned and controlled by others.

Additionally, inclusion of Solstice, et. al. goes well beyond the asset freeze. If Solstice, et. al. are to be included as receivership entities, the Receiver will take complete "custody, control, and possession of all assets, bank accounts or other financial accounts, contents of safe deposits boxes, books, records, and all other documents or instruments"¹⁰ allowing the receiver to "direct and develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property"¹¹ **without a showing that the property belonging to Solstice, et. al. are ill-gotten gains subject to disgorgement.** Indeed, the Receiver's proposed order states the following:

All other provisions of the Corrected Receivership Order shall apply to the Affiliate Receivership Entities to the same extent as Receivership Entities as necessary and appropriate to allow the Receiver to accomplish the duties required of him in the Corrected Receivership Order.¹²

Finally, Solstice, et. al.'s attorneys will be immediately terminated, leaving them without legal counsel to contest the Receivership's authority to include them in the Receivership Estate,

⁹ ECF [467](#) at pg. 149.

¹⁰ EFC [444](#) at pg. 7, ¶ 15.

¹¹ Id. at ¶ 83.

¹² See Proposed Order at ¶ 12.

including, but not limited to asserting a claim of laches against the Government's effort through the receiver to now include them rather than affording them a trial on the merits of their defenses.¹³

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In sum, without due process, a claim should not proceed against them. In *United States v. 51 Pieces of Real Property Rosell*, N.M., 17 F.3d 1306 (10th Cir. 1994), relied upon by Plaintiff, an action was initiated, the complaining party was named as a defendant, and plaintiff attempted to have that party served a complaint before it pursued default and seizure of an asset. *Id.* Although proceeding under a federal forfeiture statute which was specifically void of any due process requirements, the Court recognized that "due process requires that a person be given notice and an opportunity for a hearing before being deprived of a property interest."¹⁶ No such hearing has ever taken place in this case.

Solstice, et. al.'s assets (and others similarly situated) have already been frozen by this Court's order and then confiscated by the Receiver without any proof justifying these draconian steps to occur. Now, the Court is taking the further leap in finding Solstice, et. al.'s assets to be the same as the party Defendants – essentially making them liable for another entity's actions. The Receiver's request goes too far and the Court's Order should be modified to exclude these parties.

¹³ *United States v. Rodriguez-Aguirre*, 264 F.3d 1195, 1208 (10th Cir. 2001) "[I]n order to prove the affirmative defense of laches, the defendant must demonstrate that there has been an unreasonable delay in asserting the claim and that the defendant was materially prejudiced by the delay." *Id.* (emphasis added).

¹⁴ Further, assuming there is a reason to allow even temporarily some freeze, it should not in any event affect a legal retainer required to pay legal counsel to defend these entities and the Defendants for which they intended to provide assistance. If Defendants succeed on appeal, both Solco I and XSun Energy can never face a claim against them. Therefore, they are the direct beneficiaries of the prophylactic effect of Defendants' successful appeal.

¹⁵ See *infra* at II and III.

¹⁶ *Id.* (citing *Fuentes v. Shevin*, 407 U.S. 67, 81-82, 32 L. Ed. 2d 556, 92 S. Ct. 1983 (1972)).

DATED this 23rd day of May, 2019.

NELSON SNUFFER DAHLE & POULSEN

/s/ Denver C. Snuffer, Jr.
Denver C. Snuffer, Jr.
Steven R. Paul
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **SOLCO I, LLC'S OBJECTION TO ORDER ON MEMORANDUM AND DECISION AND ORDER ON RECEIVER'S MOTION TO INCLUDE AFFILIATES AND SUBSIDIARIES IN RECIEVERSHIP (ECF 636)** was sent to counsel for the United States in the manner described below.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**MEMORANDUM DECISION AND
ORDER OVERRULING OBJECTIONS
REGARDING INCLUSION OF
AFFILIATES AND SUBSIDIARIES**

Case No. 2:15-cv-00828-DN

District Judge David Nuffer

The Memorandum Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership (“Affiliates Order”) states that “[a]ny person who may have an objection to” the Affiliates Order, “whether in whole or in part, must file such objection in this case within 21 days of receiving actual notice of” the Affiliates Order “or else such objection shall be considered waived.”¹ Since then, XSun Energy LLC has filed a timely objection to the Affiliates Order;² Solco I LLC has filed a timely objection to the Affiliates Order;³ and Solstice Enterprises Inc., Black Night Enterprises Inc., Starlite Holdings Inc., and N.P. Johnson Family Limited Partnership have filed a timely objection to the Affiliates Order.⁴ All three objections

¹ [Docket no. 636](#) (“Affiliates Order”), filed May 3, 2019.

² XSun Energy LLC’s Objection to Order on Memorandum and Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership, [docket no. 664](#), filed May 23, 2019; *see* Receiver’s Response to Objections to Memorandum Decision and Order Including Affiliates and Subsidiaries in Receivership Estate (“Response”), [docket no. 687](#), filed June 6, 2019.

³ Solco I LLC’s Objection to Order on Memorandum and Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership, [docket no. 665](#), filed May 23, 2019; *see* Response, *supra* note 2.

⁴ Solstice Enterprises Inc., Black Night Enterprises Inc., Starlight Holdings Inc., N.P. Johnson Family Limited Partnership’s Objection to Order on Memorandum and Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership, [docket no. 675](#), filed May 24, 2019; *see* Response, *supra* note 2; *see also*

(collectively, the “Objections”) are essentially identical and argue the same thing: that the Affiliates Order violates the objectors’ procedural due process rights.

XSun Energy LLC, Solco I LLC, and Solstice LLC previously made this same argument (nearly verbatim), and it was rejected.⁵ For the same reasons as before, it is rejected again today.

It has already been established that each of the objectors “received timely and sufficient notice of the” Receiver’s Motion to Include Affiliates and Subsidiaries in the Receivership Estate⁶ and was “afforded an adequate opportunity to be heard with respect to it.”⁷ The Objections do not raise a genuine dispute regarding this issue or as to any other material fact stated in the Affiliates Order. As a result, the objectors were afforded due process prior to issuance of the Affiliates Order, and, by allowing them to raise further objections after that order was entered, they were afforded additional due process.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Objections⁸ are OVERRULED.

Signed July 8, 2019.

BY THE COURT:



David Nuffer
United States District Judge

Solstice Enterprises Inc., Black Night Enterprises Inc., Starlight Holdings Inc., N.P. Johnson Family Limited Partnership’s Objection to Order on Memorandum Decision and Order on Receiver’s Motion to Include Affiliates and Subsidiaries in Receivership, [docket no. 666](#), filed May 23, 2019; Notice of Deficiency, [docket no. 667](#), filed May 23, 2019.

⁵ Response to Receiver’s Report and Recommendation and Motion to Include Affiliates and Subsidiaries in the Receivership Estate, [docket no. 596](#), filed March 15, 2019; *see* Affiliates Order, *supra* note 1.

⁶ [Docket no. 582](#), filed March 1, 2019.

⁷ Affiliates Order, *supra* note 1, at 3.

⁸ [Docket no. 664](#), filed May 23, 2019; [Docket no. 665](#), filed May 23, 2019; [Docket no. 675](#), filed May 24, 2019.