

JOHN W. HUBER, United States Attorney (#7226)
JOHN K. MANGUM, Assistant United States Attorney (#2072)
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Email: john.mangum@usdoj.gov

ERIN HEALY GALLAGHER, *pro hac vice*
DC Bar No. 985670, erin.healygallagher@usdoj.gov
ERIN R. HINES, *pro hac vice*
FL Bar No. 44175, erin.r.hines@usdoj.gov
CHRISTOPHER R. MORAN, *pro hac vice*
NY Bar No. 5033832, christopher.r.moran@usdoj.gov
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 7238
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 353-2452

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

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

Defendants.

Civil No. 2:15-cv-00828 DN EJF

**ORDER GRANTING UNITED
STATES' MOTION FOR
REASONABLE EXPENSES &
ATTORNEYS' FEES ASSOCIATED
WITH MOTIONS TO COMPEL**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

PENDING before the Court is the United States' Motion for its expenses & attorney's fees associated with three discovery disputes:

1. Deposition testimony of Kenneth Birrell¹;
2. Document production and deposition testimony from Todd Anderson²; and
3. Deposition testimony of Cody Buck, Ken Oveson, and David Mantyla (each associated with accounting firm Mantyla McReynolds).³

The United States' motion is directed at either the defendants, Neldon Johnson, RaPower-3, LLC, International Automated Systems Inc., LTB1, LLC, *or* their former attorneys, Mr. Justin Heideman and Mr. Christian Austin of the Heidman & Associates law firm. The United States seeks recoupment of \$8,899.98 for the time its attorneys spent drafting successful motions to compel discovery, and the additional travel costs it incurred for its attorneys to attend court hearings and the additional depositions that were necessitated by the circumstances surrounding the motions to compel.

Pursuant to Fed. R. Civ. P. 37(a)(5), and for the reasons stated in the United States' motion, [the defendants, Neldon Johnson, RaPower-3, LLC, International Automated Systems

¹ See ECF Doc. No. 140, United States' Motion to Compel Deposition Testimony of Kenneth Birrell; ECF Doc. No. 203, Order Granting Motion to Compel Deposition Testimony of Kenneth Birrell.

² See ECF Doc. No. 124 Todd Anderson's Motion to Quash Deposition Subpoena; ECF Doc. No. 127 Defendants' Motion to Quash Todd Anderson's deposition subpoena; ECF Doc. No. 138 United States' Motion to Compel Todd Anderson to Produce Documents; ECF Doc. No. 150 Defendants' Objections to the United States' Motion to Compel Todd Anderson to Produce Documents; ECF Doc. No. 163 United States' Renewed Motion to Compel Todd Anderson to Produce Documents; ECF Doc. No. 176 Defendants' Opposition to United States' Renewed Motion to Compel Todd Anderson to Produce Documents; ECF Doc. No. 206, Order Granting Motion to Compel Todd Anderson to Produce Documents.

³ See ECF Doc. No. 137 United States' Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla; ECF Doc. No. 147 Defendants' Response; ECF Doc. No. 209, Order Granting Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla.

Inc., LTB1, LLC] **or** [the law firm Heideman & Associates] is ORDERED to pay the United States' expenses and attorneys' fees, totaling \$8,899.98 within seven (7) days by tendering a certified check to counsel for the United States, made payable to the "U.S. Department of Justice."

IT IS SO ORDERED.

DATED this _____ 2018.

Evelyn J. Furse
United States Magistrate Judge