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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, NELDON JOHNSON, and ROGER FREEBORN,</p> <p>Defendants.</p>	<p>Civil No. 2:15-cv-00828-DN-EJF</p> <p>DEFENDANTS' RULE 60(a) REQUEST FOR RELIEF BASED ON OVERSIGHT</p> <p>Judge David Nuffer Magistrate Judge Evelyn J. Furse</p>
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Defendants RaPower-3, LLC, International Automated Systems, Inc., LTB1, LLC., R. Gregory Shepard, Neldon Johnson, and Roger Freeborn, (hereinafter collectively "the Defendants") respectfully submit this Request for Relief Based on Oversight of the Court. Specifically, the Defendants object to the timing and content of this Court's Memorandum Decision and Order Denying Defendants' Motion to Reinstate Trial by Jury.¹ Pursuant to [DUCivR](#)

¹ [ECF Doc 322](#).

[7-1\(b\)\(3\)\(B\)](#), the Defendants are entitled to 14 days after service of a memorandum opposing their motion to file a reply memorandum. The court may, but did not, order shorter briefing periods.²

Here, the Plaintiff filed its Brief in Opposition to Defendants' Motion to Reinstate Trial by Jury on February 26, 2018.³ Fourteen days from February 26, 2018 is March 12, 2018.⁴ This Court did not order a shorter briefing period. Therefore, Defendants' reply memorandum is due no later than March 12, 2018. Therefore, the Court entered its Order prematurely, and without considering Defendants' response, and Defendants respectfully request relief from this Court's premature March 7th Order on the grounds that timing of its entry was an oversight of [DUCivR 7-1\(b\)\(3\)\(B\)](#), so that Defendants may submit their reply memorandum responsive to Plaintiff's opposition to Defendants' Motion to Reinstate Trial by Jury within the time prescribed by the rule. Further, the Court was not fully informed by Defendants' response, and therefore could not reach a fully reasoned decision.⁵

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² [DUCivR 7-1\(b\)\(3\)\(B\)](#).

³ See Doc. 322 at n. 9; [doc. no. 309](#).

⁴ See [Doc. No. 309](#).

⁵ Important information about the status of the law of the 10th Circuit Court, as well as the new damages theories of the government, and another pending motion not yet fully briefed, all ought to inform the Court's decision. Of course, it goes without saying that the Court should provide a level field for both parties in this case.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' RULE 60(a) REQUEST FOR RELIEF BASED ON OVERSIGHT** was sent to counsel for the United States in the manner described below.

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