



**U.S. Department of Justice**

**Tax Division**

*Trial Attorney: Erin Healy Gallagher*  
*Attorney's Direct Line: 202-353-2452*  
*Fax No. 202-514-6770*  
*Erin.HealyGallagher@usdoj.gov*

*Please reply to: Civil Trial Section, Central Region*  
*P.O. Box 7238*  
*Washington, D.C. 20044*

DAH:RSC:EHealyGallagher  
DJ 5-77-4466  
CMN 2014101376

September 5, 2017

**VIA U.S. Mail**

Roger Freeborn  
P.O. Box 1616  
Estacada OR 97023

**VIA FedEx**

Gregory Shepard  
858 Clover Meadow Drive  
Salt Lake City, UT 84123

**VIA Email and FedEx**

Steven R. Paul  
NELSON, SNUFFER, DAHLE & POULSEN  
10885 South State  
Sandy, Utah 84070  
spaul@nsdplaw.com

Re: *United States v. RaPower-3, LLC, et al.*  
Case No. 2:15-cv-00828-DN-BCW

Dear Gentlemen:

Please see the enclosed disc, which contains tax returns connected to the sale of solar lenses through RaPower-3, LLC. It contains the documents identified in ECF Doc. 197 ¶¶ 3(b) and 4(b). The disc is encrypted. I will send the password under separate cover.

Please also see the enclosed notice of deposition and rescheduled deposition, with subpoenas.

Sincerely

*/s/ Erin Healy Gallagher*  
ERIN HEALY GALLAGHER  
Trial Attorney  
Civil Trial Section, Central Region

**Plaintiff  
Exhibit**

785

Encls.

Production of US Bates Tax Returns  
(PASSWORD PROTECTED)

Production  
Date:  
Sep 1, 2017

U.S. v. Rapower-3, LLC, et al.  
D. Utah No. 15-828

JOHN W. HUBER, United States Attorney (#7226)  
JOHN K. MANGUM, Assistant United States Attorney (#2072)  
111 South Main Street  
Suite 1800  
Salt Lake City, UT, 84111  
Telephone: (801) 524-5682  
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ERIN HEALY GALLAGHER, *pro hac vice*  
D.C. 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

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>RAPOWER-3, LLC, INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, R. GREGORY SHEPARD, NELDON JOHNSON, and ROGER FREEBORN,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Civil No. 2:15-cv-00828-DN-EJF</p> <p style="text-align: center;"><b>UNITED STATES' NOTICE OF DEPOSITION AND RESCHEDULED DEPOSITION</b></p> <p style="text-align: center;">Judge David Nuffer Magistrate Judge Evelyn J. Furse</p>
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Pursuant to Fed. R. Civ. P. 30 and 45, please take notice that, pursuant to Court orders,<sup>1</sup> the United States will take the following depositions in this matter, at the following dates, times, and locations. The depositions will be recorded by stenographic means; will continue from day-to-day until completed, without further notice; and will be used for discovery, the preservation of testimony, and any other permissible purpose under the Federal Rules of Civil Procedure in the above-captioned matter.

<b>Name</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
Jessica Anderson	September 18, 2017	1:00 p.m.	IRS Office 173 East 100 North Provo, UT 84601-3143
Richard Jameson	September 20, 2017	9:00 a.m.	U.S. Attorney's Office 20 North Main Street Suite 208 St. George, Utah 84770

Copies of the subpoenas for deposition are attached.

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<sup>1</sup> ECF Docs. 197 & 209; *see also* ECF Doc. 217.

Dated: September 5, 2017

JOHN W. HUBER  
United States Attorney

*/s/ Erin Healy Gallagher*  
ERIN HEALY GALLAGHER  
D.C. Bar No. 985670  
Email: Erin.HealyGallagher@usdoj.gov  
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CHRISTOPHER R. MORAN  
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Telephone: (202) 307-0834  
Trial Attorneys, Tax Division  
U.S. Department of Justice  
P.O. Box 7238  
Ben Franklin Station  
Washington, D.C. 20044  
FAX: (202) 514-6770

*Attorneys for the United States*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 5, 2017, the foregoing document, with supporting exhibits, was sent by electronic mail to the following counsel of record:

Denver C. Snuffer, Jr.  
Steven R. Paul  
Daniel B. Garriott  
Joshua D. Egan  
NELSON, SNUFFER, DAHLE & POULSEN  
10885 South State  
Sandy, Utah 84070  
denversnuffer@gmail.com  
spaul@nsdplaw.com  
dbgarrriott@msn.com  
Joshua.egan@me.com  
**ATTORNEY FOR RAPOWER-3, LLC,  
INTERNATIONAL AUTOMATED SYSTEMS, INC., LTB1, LLC, NELDON JOHNSON,  
and RICHARD JAMESON**

Stuart H. Schultz  
Byron G. Martin  
STRONG & HANNI  
102 South 200 East, Suite 800  
Salt Lake City, UT 84111  
**ATTORNEYS FOR JESSICA ANDERSON**

I hereby certify that on September 5, 2017, the foregoing document, with supporting exhibits, was sent by U.S. Mail, first class, postage prepaid, to:

Roger Freeborn  
P.O. Box 1616  
Estacada OR 97023  
**PRO SE**

Gregory Shepard  
858 Clover Meadow Drive  
Salt Lake City, UT 84123  
**PRO SE**

*/s/ Erin Healy Gallagher*  
ERIN HEALY GALLAGHER

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Utah

UNITED STATES OF AMERICA

Plaintiff

v.

RAPOWER-3, LLC, et al.

Defendant

Civil Action No. 2:15-cv-00828-DN-BCW

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Jessica Anderson
c/o Anderson Law Center, PO Box 183, 54 South 300 East, Delta, Utah 84624

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (173 East 100 North, Provo, UT 84601-3143) and Date and Time (09/18/2017 1:00 am)

The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 09/05/2017

CLERK OF COURT

OR

/s/ Erin Healy Gallagher

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) United States of America, who issues or requests this subpoena, are:

Erin Healy Gallagher, U.S.Dept. of Justice, P.O. Box 7238, Washington, D.C. 20044; erin.healygallagher@usdoj.gov; (202) 353-2452

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:15-cv-00828-DN-BCW

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:



**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Utah

United States of America

Plaintiff

v.

RaPower-3, LLC, et al.

Defendant

Civil Action No. 2:15-cv-00828-DN-BCW

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Richard Jameson c/o Northstar Tax Services
784 S River Road #348, St. George, UT 84790

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (U.S. Attorney's Office, 20 North Main Street, Suite 208, St. George, UT 84770) and Date and Time (04/19/2017 9:00 am)

The deposition will be recorded by this method: stenography

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/15/2017

CLERK OF COURT

OR

/s/ Erin Healy Gallagher

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) United States of America, who issues or requests this subpoena, are: Erin Healy Gallagher, U.S.Dept. of Justice, P.O. Box 7238, Washington, D.C. 20044; erin.healygallagher@usdoj.gov; (202) 353-2452

Notice to the person who issues or requests this subpoena

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\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

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(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

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**U.S. Department of Justice**

**Tax Division**

*Trial Attorney: Erin Healy Gallagher*  
*Attorney's Direct Line: 202-353-2452*  
*Fax No. 202-514-6770*  
*Erin.HealyGallagher@usdoj.gov*

*Please reply to: Civil Trial Section, Central Region*  
*P.O. Box 7238*  
*Washington, D.C. 20044*

---

DAH:RSC:EHealyGallagher  
DJ 5-77-4466  
CMN 2014101376

September 5, 2017

**VIA U.S. Mail**

Roger Freeborn  
P.O. Box 1616  
Estacada OR 97023

**VIA FedEx**

Gregory Shepard  
858 Clover Meadow Drive  
Salt Lake City, UT 84123

Re: *United States v. RaPower-3, LLC, et al.*  
Case No. 2:15-cv-00828-DN-BCW

Dear Gentlemen:

Here is the password for the disc I sent under separate cover on September 5, 2017, which contains tax returns connected to the sale of solar lenses through RaPower-3, LLC. The password to open the documents on the disc is "W3aR#u5+gU".

Please let me know if you have any difficulty accessing the documents.

Sincerely

*/s/ Erin Healy Gallagher*  
ERIN HEALY GALLAGHER  
Trial Attorney  
Civil Trial Section, Central Region