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*Attorneys for Defendants*

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., LTBI,  
LLC, R. GREGORY SHEPARD,  
NELDON JOHNSON, and ROGER  
FREEBORN,

Defendants.

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

**DEFENDANTS' RESPONSE TO TODD AND  
JESSICA ANDERSONS' MOTION TO  
MODIFY TRIAL SUBPOENA [DOC. 343]**

Judge David Nuffer  
Magistrate Judge Evelyn J. Furse

Defendants have no objection to reasonable modification of the Andersons' trial subpoena. Plaintiff issued the subpoena. Plaintiff has designated the Andersons as "will-call" witnesses. Defendants have also designated the Andersons as "may-call" witnesses. Their testimony will be meaningful to the case.

The Andersons cite various reasons for modifying the trial subpoena, most relate to the costs of attending trial far from their home in Delta, Utah. The reasons given by the Andersons' to modify the trial subpoena are:

1. Travel costs.
2. Child care costs.
3. Lost income from the joint legal practice.<sup>1</sup>
4. Schedule issues.<sup>2</sup>

Defendants agree that as important witnesses the Anderson's should be compensated for the subpoena to appear. The relevant authority for witness fees associated with a federal civil court subpoena appears to be 28 USC 1821, which provides for an attendance fee of \$40 per day and mileage of \$57.5 per mile. The Andersons should be given reasonable notice of the specific day(s) they may be required to give testimony. However, Defendants do not agree that Andersons should be granted fees for lost income.

Participating in the judicial process may be time consuming and interfere with the normal activities of the Anderson's practice, but there is no basis to suggest that the time spent in this case will prevent the Andersons from meeting their obligations in their practice or prevent them from adjusting their schedules to accommodate the trial schedule. Unlike a doctor that has set appointments that she may miss and cannot replace, an attorney works in increments of time and can replace time spent traveling or dedicated to this trial at another time during evenings or weekends.

NELSON SNUFFER DAHLE & POULSEN

/s/ Steven R. Paul  
Denver C. Snuffer, Jr.  
Steven R. Paul  
Daniel B. Garriott  
*Attorneys for Defendants*

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<sup>1</sup> Motion, Doc. 343, section I.

<sup>2</sup> Id., p. 2 at ¶ 3.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' RESPONSE TO TODD AND JESSICA ANDERSONS' MOTION TO MODIFY TRIAL SUBPOENA [DOC. 343]** was sent to counsel for the United States in the manner described below.

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/s/ Steven R. Paul  
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