



To: "utdj_Nuffer@utd.uscourts.gov" <utdj_Nuffer@utd.uscourts.gov>,
"Moran, Christopher R. (TAX)" <Christopher.R.Moran@usdoj.gov>, "dbgarrriott@msn.com"
Cc: <dbgarrriott@msn.com>, Denver Snuffer <denversnuffer@gmail.com>,
"dj.nuffer@utd.uscourts.gov" <dj.nuffer@utd.uscourts.gov>, "Hines, Erin R. (TAX)"
Bcc:
Subject: RE: US v. RaPower-3, LLC, et al.:Exhibit Lists
From: "Healy Gallagher, Erin (TAX)" <Erin.HealyGallagher@usdoj.gov> - Sunday 04/22/2018
03:17 PM

History: This message has been forwarded.

1 attachment



Plaintiffs exhibit and witness list 032918 updated with dates.docx

Dear Judge Nuffer,

We have gone through the list of Plaintiff's Exhibits and added dates to the descriptions of e-mails and letters in track changes format. The exhibit list with those revisions is attached.

As we were doing that, and checking the Court's exhibit list against ours, we noticed that a number of exhibits that were marked or received in evidence on the record were not so marked on the Court's exhibit list. We wanted to flag those instances, to ensure that all records accurately reflect the evidence admitted to date. They are:

1. Exhibits connected to the deposition designations that are on Court Exhibit 2 (except for Pl. Exs. 349, 465, 535, which you addressed separately) were received in evidence in bulk. Trial Tr. 972:15-974:12. But they are not marked as received on the exhibit list attached. We moved to admit certain individual exhibits with Matthew Shepard, which were received. Based on Trial Tr. 972:15-974:12 and Court Exhibit 2, however, we believe that all of the following Plaintiff's Exhibits should also be marked as having been received on April 19:

28, 38, 40, 41, 44, 48, 50, 51, 52, 54, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 70, 70A, 75, 76, 77, 78, 81, 83, 85, 87, 88, 181, 184, 187, 191, 198, 198A, 198B, 198C, 199, 216, 217, 218, 220, 237, 246, 249, 294, 295, 296, 297, 300, 301, 302, 303, 304, 305, 307, 308, 310, 311, 312, 314, 315, 316, 317, 318, 319, 320, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 346, 347, 352, 387, 388, 389, 390, 391, 392, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 420, 459, 463, 464, 466, 467, 468, 470, 471, 474, 476, 479, 481, 482, 489, 490, 491, 493, 494, 500, 501, 503, 505, 507, 510, 511, 512, 513, 514, 515, 518, 519, 520, 523, 525, 531, 532, 534, 537, 538, 539, 540, 546, 555, 556, 558, 587, 588, 592, 595, 596, 597, 598, 599, 603, 605, 608, 609, 646, 647, 648, 649, 650, 674, 678

2. Plaintiff's Exhibits 30, 168, 169, 170, 171, 172, 173, and 175 were offered and received in evidence on April 5 (Trial Tr. 724:7-725:4), but are not marked as having been received.
3. Plaintiff's Exhibits 714-733 were offered and received in evidence on April 5 (Trial Tr. 856:12-21), but are not marked as having been received.
4. Plaintiff's Exhibit 752 was received offered and received in evidence on April 5 (Trial Tr.

838:10-839:21), but is not marked as having been received.

5. Plaintiff's Exhibit 509, video 12_4_00-4_23A, Plaintiff's Exhibit 509 video 12_4_38-5_15A, Plaintiff's Exhibit 509, video 12_4_38-5_15B, and Plaintiff's Exhibit 562A were offered on April 19. Trial Tr. 971:19-972:14. These are not separately identified on the attached exhibit list. Further, the Court did not rule on their admission. Id.

6. Plaintiff's Exhibits 413 through 416 were offered April 20. Trial Tr. 1210:23-1213:7. The attached exhibit list does not note that Pl. Ex. 416 was offered on that date.

7. For Plaintiff's Exhibit 554: it is included on the list of exhibits used in deposition designations that were not on Court Exhibit 2 which I emailed to the Court and opposing counsel on April 20. But I see that I misspoke on the record and called it Pl. Ex. 544. Trial Tr. 1210:9-12. I had already identified Pl. Ex. 544, Trial Tr. 1210:1-4, and evidently transposed numbers regarding Pl. Ex. 554. I will clean this up on the record on Monday.

8. The following are exhibits that have been marked, but not offered or received (Trial Tr. 1214:24-1218:20), and do not appear on the attached exhibit list. We include them here for completeness: 448A, 579A, 581A, 673A, 681A, 682A, 683A, 685A, 687A, 688A, 689A, 690A, 693A, 697A, 713A.

9. With respect to Pl. Ex. 360: Defendants offered this exhibit, not the United States. We objected and it was not received. Trial Tr. 704:12-706:20.

In addition to these notes, the Court also stated that we would address on Monday, April 23, all exhibits addressed on the record on Friday morning, which I also identified in the email I sent to the Court and defense counsel on April 20. Trial Tr. 1207:7-1213:7.

Respectfully submitted,

Erin Healy Gallagher
Department of Justice - Tax Division
PO Box 7238
Washington DC 20044
(o) 202 353 2452
(f) 202 514 6770
erin.healygallagher@usdoj.gov

From: Anndrea_Sullivan-Bowers@utd.uscourts.gov [mailto:Anndrea_Sullivan-Bowers@utd.uscourts.gov]
] **On Behalf Of** utdj_Nuffer@utd.uscourts.gov

Sent: Friday, April 20, 2018 6:17 PM

To: Healy Gallagher, Erin (TAX) <Erin.HealyGallagher@tax.USDOJ.gov>

Cc: Moran, Christopher R. (TAX) <Christopher.R.Moran@tax.USDOJ.gov>; dbgarriott@msn.com; Denver Snuffer <denversnuffer@gmail.com>; dj.nuffer@utd.uscourts.gov; Hines, Erin R. (TAX) <Erin.R.Hines@tax.USDOJ.gov>; joshua.egan@me.com; spaul@nsdplaw.com

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