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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., LTBI, 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' REQUEST FOR A CONTINUANCE OF TRIAL ON THE BASIS OF LITIGANT'S HEALTH</p> <p>Judge David Nuffer Magistrate Judge Evelyn J. Furse</p>
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Defendants RaPower-3, LLC, International Automated Systems, Inc., LTBI, LLC., R. Gregory Shepard, and Neldon Johnson (hereinafter collectively "Defendants"), pursuant to Rule 52(c), respectfully submit this motion to continue trial that is currently set to resume in this matter on June 21, 2018. Mr. Gregory Shepard, a named defendant in this matter, informed counsel this morning, that on June 14, 2018, his cardiologist Dr. Konstantyn Szwajkun, M.D., scheduled Mr. Shepard for angiogram heart procedure to complete diagnosis and treatment that will either result in stint placement on Friday, June 22, 2018, or open-heart surgery or as soon thereafter as the

doctor's surgery schedule will allow. According to Dr. Szwajkun, this procedure could not be delayed given Mr. Shepard's prognosis. As soon as we receive more information from the doctor, we will provide to the court and counsel.

A telephone call was placed to Ms. Healy-Galleghar and to the court with this information earlier today to alert to the need for the continuance.

Motions for continuance are addressed to the sound discretion of the trial court. *Robinson v. United States*, 718 F.2d 336, 338 n.1 (10th Cir. 1983); *accord Fulton v. Coppco, Inc.*, 407 F.2d 611, 612 (10th Cir. 1969). Illness of a litigant severe enough to prevent him from appearing in court is always a legitimate ground for asking for a continuance *Davis v. Operation Amigo, Inc.*, 378 F.2d 101, 103 (10th Cir. 1967).

In this case, Mr. Shepard cannot attend trial at the time prescribed due his illness, nor can his treatment be delayed to accommodate trial. He is suffering from heart disease that requires immediate medical intervention. A continuance is entirely appropriate to ensure Mr. Shepard and his family can attend and participate in his defense of this action once he has been cleared by his physician.

Dated this 15th day of June, 2018.

NELSON SNUFFER DAHLE & POULSEN

/s/ Denver C. Snuffer, Jr.
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **DEFENDANTS' REQUEST FOR A CONTINUANCE OF TRIAL ON THE BASIS OF LITIGANT'S HEALTH** was sent to counsel for the United States in the manner described below.

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/s/ Denver C. Snuffer, Jr.
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