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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL  
AUTOMATED SYSTEMS, INC.; LTB1,  
LLC; R. GREGORY SHEPARD; and  
NELSON JOHNSON,

Defendants.

**MEMORANDUM DECISION AND  
ORDER GRANTING PLAINTIFF'S  
MOTION FOR REASONABLE  
EXPENSES AND ATTORNEYS' FEES**

Case No. 2:15-cv-00828-DN

District Judge David Nuffer

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Plaintiff United States of America filed a motion<sup>1</sup> seeking an award of attorneys' fees and costs incurred in making certain discovery motions<sup>2</sup>—upon which the United States prevailed<sup>3</sup>—against Defendants Neldon Johnson, RaPower-3 LLC, International Automated Systems Inc., and LTB1 LLC (collectively, “Defendants”) and the law firm of Heideman & Associates (the “Firm”). Because the conduct of Defendants and the Firm necessitated the discovery motions and was not substantially justified, Defendants and the Firm are required under rule 37(a)(5)(A) of

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<sup>1</sup> Motion for Reasonable Expenses and Attorneys' Fees Associated with Motions to Compel (the “Motion”), [docket no. 290](#), filed February 13, 2018.

<sup>2</sup> See United States' Motion to Compel Deposition Testimony of Kenneth Birrell, [docket no. 140](#), filed March 28, 2017; United States' Motion to Compel Todd Anderson to Produce Documents, [docket no. 138](#), filed March 24, 2017; United States' Renewed Motion to Compel Todd Anderson to Produce Documents, [docket no. 163](#), filed May 18, 2017; United States' Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, [docket no. 137](#), filed March 23, 2017.

<sup>3</sup> See Order Granting Motion to Compel Deposition Testimony of Kenneth Birrell, [docket no. 203](#), filed June 29, 2017; Order Granting Motion to Compel Todd Anderson to Produce Documents, [docket no. 206](#), filed July 6, 2017; Order Granting Motion to Compel Deposition Testimony of Cody Buck, Ken Oveson, and David Mantyla, [docket no. 209](#), filed July 21, 2017.

the Federal Rules of Civil Procedure to pay the United States' reasonable attorneys' fees and costs incurred in making the discovery motions, which total \$8,899.98.<sup>4</sup>

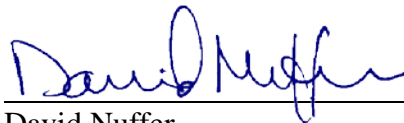
**ORDER**

THEREFORE, IT IS HEREBY ORDERED that the the Motion is GRANTED.<sup>5</sup>

Judgment will be entered in favor of Plaintiff United States of America against Defendants Neldon Johnson, RaPower-3 LLC, International Automated Systems Inc., and LTB1 LLC, and the law firm of Heideman & Associates, jointly and severally, for reasonable attorneys' fees and costs in the total amount of \$8,899.98.

Signed October 23, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge

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<sup>4</sup> Motion, *supra* note 1, at 6; Exhibit 712, [docket no. 290-2](#), filed February 13, 2018.

<sup>5</sup> Motion, *supra* note 1.