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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., LTB1,
LLC, R. GREGORY SHEPARD,
NELDON JOHNSON, and ROGER
FREEBORN,

Defendants.

Civil No. 2:15-cv-00828 DN

**REQUEST TO SUBMIT FOR
DECISION:
UNITED STATES' MOTION TO
SHOW CAUSE WHY NELDON
JOHNSON, R. GREGORY SHEPARD,
GLENDA JOHNSON, LAGRAN
JOHNSON, AND RANDALE JOHNSON
SHOULD NOT BE HELD IN CIVIL
CONTEMPT OF COURT FOR
VIOLATING THE CORRECTED
RECEIVERSHIP ORDER**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

Pursuant to DUCivR 7-3, the United States respectfully submits for decision its pending motion for order to show cause why Neldon Johnson, R. Gregory Shepard, Glenda Johnson, LaGrand Johnson, and Randale Johnson should not be held in civil contempt of court for violating the Corrected Receivership Order.¹ In support of this request, we state the following:

1. On January 29, 2019, the United States filed its motion for order to show cause why Neldon Johnson, R. Gregory Shepard, Glenda Johnson, LaGrand Johnson, and Randale Johnson should not be held in civil contempt of court for violating the Corrected Receivership Order.²
2. Neldon Johnson and R. Gregory Shepard, Defendants in this case, were served with the motion on January 29, 2019, because their attorneys of record were served via the CM/ECF System.³
3. Under the Local Rules, Neldon Johnson and R. Gregory Shepard were required to respond to the motion no later than February 12, 2019.⁴ They have not responded.
4. The motion for order to show cause is therefore ripe with respect to Neldon Johnson and R. Gregory Shepard.
5. The United States did not immediately serve the motion on non-parties Glenda Johnson, LaGrand Johnson, or Randale Johnson. Instead, because of the

¹ ECF No. 559.

² ECF No. 559.

³ Under the recent amendments to the Federal Rules of Civil Procedure, a Certificate of Service is no longer required for service made by the CM/ECF System. Fed. R. Civ. P. 5(d)(1)(B). Therefore, the United States' motion did not contain a certificate of service.

⁴ DUCivR 7-1(b)(3)(B).

procedure with a previous motion for order to show cause, we anticipated that the Court would order that all Respondents respond to the motion by a particular date and set a hearing.⁵ We anticipated that once the show-cause order issued for this most recent motion, the order would then be served on all Respondents along with the motion itself.⁶

6. We ask that the Court enter an order for all Respondents to respond to the motion by a date-certain, and set a hearing on the motion.
7. Once that order is issued, the United States will serve both the order to show cause and the motion for order to show cause on all Respondents.⁷

⁵ See [ECF No. 483](#), ECF No. 485, ECF No. 487: the United States' motion for an order to show cause why R. Gregory Shepard should not be held in civil contempt and subsequent orders (all docketed on October 25, 2018).

⁶ See [ECF No. 559-3](#), United States' proposed order regarding this motion for order to show cause.

⁷ The United States filed its motion before Nelson, Snuffer, Dahle & Polson ("NSDP") moved to withdraw as counsel for Defendants in this case. See [ECF No. 559](#); [ECF No. 563](#). The United States' proposed order with its motion stated that Defense counsel would serve Respondents, [ECF No. 559-3](#), because Neldon and Glenda Johnson appeared to be avoiding service of other papers, [ECF No. 557 at 39](#) n.138, and it appeared that Defense counsel had better access to Respondents than process servers, see [ECF No. 557 at 2-3](#) (counsel provided the Receiver with acknowledgments from all Respondents of having received the Corrected Receivership Order). In light of NSDP's motion to withdraw and the Firm's assertions regarding their client relationship within that motion, however, the United States will serve the documents instead.

Dated: February 15, 2019

Respectfully submitted,

/s/ Erin Healy Gallagher

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