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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

**UNITED STATES' MOTION TO
EXCEED PAGE LIMIT FOR ITS
FORTHCOMING MOTION FOR
ADDITIONAL SANCTIONS DUE TO
CONTINUED CONTEMPT**

Judge David Nuffer
Magistrate Judge Evelyn J. Furse

After the United States filed a 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 (the “Motion”)¹ and hearings on April 26, May 3, and May 28, 2019, this Court entered an order holding Neldon Johnson, R. Gregory Shepard, Glenda Johnson, LaGrand Johnson, and Randale Johnson in civil contempt for violating the Corrected Receivership Order (“CRO”) in this matter.² The CRO requires Neldon Johnson, Glenda, LaGrand, and Randale Johnson, to provide documents and information to, and to cooperate with the Receiver. Johnson must also turn over assets to the Receiver. But even after order holding them in civil contempt, and this Court’s painstaking efforts to compel their compliance with remedies short of coercive incarceration, they are *still* in defiance of the CRO and the contempt order. Therefore, the United States will be filing a motion seeking additional coercive and remedial sanctions.

Pursuant to DUCivR 7-1(b)(2)(C) & (e), the United States respectfully requests leave of Court to exceed the Local Rules’ page limitation for its motion. DUCivR 7-1(b)(2)(C) permits such a motion and supporting memorandum to be 10 pages, exclusive of its “face sheet, table of contents, concise introduction, table of exhibits, and exhibits.” The current draft of the United States’ motion and supporting brief is 15 pages. The current draft addresses the facts and law relevant to: 1) this Court’s contempt order, which identified the specific failures that placed the Johnsons in civil contempt; 2) set forth a procedure for the Johnsons to come into compliance

¹ ECF No. 559.

² ECF No. 701; ECF No. 491.

with the CRO; 3) the Johnsons' subsequent failures to comply with the contempt order (and therefore the CRO), and 4) the appropriate sanctions to enforce this Court's lawful orders and remedy the harm caused to the Receivership and the United States by the Johnsons' ongoing defiance.

We have drafted one motion that addresses all of the Johnsons' failures because their conduct that defies this Court's orders is interrelated (as the Court has already observed³). Therefore, it is logical to file a single motion that addresses all such conduct and the appropriate sanctions that flow from it rather than four separate motions (one regarding each of the Johnsons). It is also more efficient for both the Court and the parties to address one motion with five additional pages that provides a complete picture of the continued defiance, then four separate motions of 10 or fewer pages with some repetitive content and some different content. Further, we may be required to add information to the current draft of the motion if the Johnsons and R. Gregory Shepard failed to deliver the ordered payments of attorney's fees and costs to the United States and the Receiver by August 15, 2019.⁴

For this good cause shown and under these exceptional circumstances, the United States respectfully requests leave to file a motion seeking additional coercive and remedial sanctions against the Johnsons (and R. Gregory Shepard only if necessary) that is 16 pages, exclusive of its "face sheet, table of contents, concise introduction, table of exhibits, and exhibits." If the Court allows the overlength motion and memorandum and the filed motion and memorandum exceed

³ *E.g.*, ECF No. 701.

⁴ ECF No. 731, ECF No. 732.

the Local Rules' allowance, consistent with DUCivR 7-1 (e), we will include "a table of contents, with page references, listing the titles or headings of each section and subsection." A proposed order granting the requested relief is attached and will be emailed to the Court consistent with the Local Rules.

Dated: August 16, 2019

Respectfully submitted,

/s/ Erin Healy Gallagher
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**ATTORNEYS FOR THE
UNITED STATES**

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2019, the foregoing UNITED STATES' MOTION TO EXCEED PAGE LIMIT FOR ITS FORTHCOMING MOTION FOR ADDITIONAL SANCTIONS DUE TO CONTINUED CONTEMPT was electronically filed with the Clerk of the Court through the CM/ECF system, which sent notice of the electronic filing to all counsel of record.

I also certify that, on the same date and consistent with his written consent, I served the same documents by email upon:

R. Gregory Shepard
greg@rapower3.com.

Defendant and respondent pro se

/s/ Erin Healy Gallagher
ERIN HEALY GALLAGHER
Trial Attorney