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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

**ORDER TAKING UNDER  
ADVISEMENT MOTION TO  
WITHDRAW AS COUNSEL FOR  
DEFENDANT NELDON JOHNSON**

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

District Judge David Nuffer

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On May 3, 2019, an order was entered requiring Defendants R. Gregory Shepard and Neldon Johnson to each file a financial affidavit by no later than May 13, 2019, if they desired to have an attorney appointed to represent them in connection with the pending contempt proceedings.<sup>1</sup> Mr. Shepard did not file an affidavit. Mr. Johnson did.<sup>2</sup> Accordingly, on May 16, 2019, an order was entered finding Mr. Johnson indigent and appointing attorney Edwin S. Wall as his counsel.<sup>3</sup> Mr. Wall immediately entered his appearance for Mr. Johnson.<sup>4</sup>

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<sup>1</sup> Order Regarding Requests for Attorney, Expert, or Other Services Without Payment of Fee, [docket no. 635](#), filed May 3, 2019.

<sup>2</sup> Financial Affidavit in Support of Request for Attorney, Expert or Other Services Without Payment of Fee, [docket no. 639](#), filed under seal May 7, 2019.

<sup>3</sup> Docket Text Order, [docket no. 652](#), filed May 16, 2019.

<sup>4</sup> Entry of Appearance, [docket no. 655](#), filed May 16, 2019.

But the next day Mr. Wall filed a motion to withdraw because Mr. Johnson said that he “intends to . . . retain private counsel to address the case and move forward with matters presently pending before the court” and “no longer wished to have Mr. Wall represent him.”<sup>5</sup>

In his conversation with Mr. Johnson, Mr. Wall wisely “suggested that instead of merely withdrawing that the court might be willing to have Mr. Wall designated as standby counsel until such time as Mr. Johnson retains his own attorney. Mr. Johnson is agreeable . . . .”<sup>6</sup> Regardless of his status as principal or standby counsel, “Mr. Wall represents to the Court that . . . he will continue to diligently prepare for the pending hearing.”<sup>7</sup>

Mr. Wall’s advice and actions are wise. Mr. Wall’s Motion recites his many technical qualifications, beyond his legal skills, to represent Mr. Johnson.

Because preparation is essential for the hearing May 28<sup>th</sup> (which is fast approaching) and because no other counsel has filed an appearance for Mr. Johnson which indicates readiness to proceed,

### **ORDER**

IT IS HEREBY ORDERED that the Motion<sup>Error! Bookmark not defined.</sup> is TAKEN UNDER ADVISEMENT. Mr. Wall is, and shall continue to be, counsel of record for Defendant Neldon Johnson in connection with the pending contempt proceedings in this case. Should another qualified attorney timely enter an appearance for Johnson, certifying readiness to proceed, the court may take action on the motion. In the meantime, Mr. Wall and Mr. Johnson are expected to

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<sup>5</sup> Motion to Withdraw As Counsel of Record and for Standby Counsel Designation (“Motion”), at 1-2, [docket no. 657](#), filed May 17, 2019.

<sup>6</sup> Motion at 2.

<sup>7</sup> *Id.*

attend and be fully prepared for the previously-scheduled May 28, 2019 hearing and all related proceedings in this case.

IT IS FURTHER ORDERED that any party having an email address for Mr. Johnson shall serve a copy of this order on Mr. Johnson by email.

Signed May 18, 2019.

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