

Nos. 18-4150 and 18-4119

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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**UNITED STATES OF AMERICA,**

*Plaintiff-Appellee*

v.

**RAPOWER-3, LLC, ET AL**

*Defendants-Appellants*

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On Appeal from the United States District Court for the District of Utah  
No. 2:15-cv-00828-DN  
The Honorable David Nuffer

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**DEFENDANTS-APPELLANTS' MOTION TO FILE UNCONVENTIONAL  
APPENDIX EXHIBITS**

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Appellants RaPower-3, LLC, International Automated Systems, Inc., LTB1, LLC, R. Gregory Shepard, and Neldon Johnson (collectively “Appellants”) move this Court to allow submission of two unconventional exhibits as part of their Appendix. These exhibits are DEX 1500, an aerial video of a site where the solar energy systems are being installed, and PLEX 749, an Excel spreadsheet created by one of Plaintiff’s witnesses. Both are documents the trial court considered and PLEX 749 was relied upon to decide disgorgement.

**I. Statement of Grounds and Relief Sought**

Neither of these exhibits can be scanned or converted to functional pdf documents. Leaving these documents in their native formats allows the Court and counsel to fully view the information the trial court relied upon in making its decision. Appellants will be prejudiced if they are unable to present these exhibits in their native format, as the Court could not view the video as a pdf document, and the Excel spreadsheet is so large it would dramatically increase the Appendix and result in an inordinately complex set of pages presenting the Court with a much less meaningful exhibit.

## **II. Statement of Opposition**

The United States Appellate counsel has no opposition.

## **III. Conclusion**

For the reasons stated herein, Appellants respectfully request this court grant Appellants' motion to submit DEX 1500 and PLEX 749 as unconventional exhibits in their Appendix.

Respectfully submitted this 22nd day of January, 2019.

NELSON SNUFFER DAHLE & POULSEN

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

I, Steven R. Paul hereby certify that on the 22nd day of January, 2019, I served a copy of the foregoing **DEFENDANTS-APPELLANTS' MOTION TO FILE UNCONVENTIONAL APPENDIX EXHIBITS**, to the following in manner indicated:

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