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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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TRAVIS LYNN SHUMWAY; CHAD L.  
SHUMWAY; MOUNTAIN WEST  
MEDICAL SUPPLY, LLC; UNITED  
ENERGY WORKERS HEALTHCARE  
CORP.; FOUR CORNERS HEALTH CARE  
CORP.; and FOUR CORNERS  
HEALTHCARE, INC.,

Plaintiff,

v.

JAMES LINN WRIGHT; AUDRA WRIGHT;  
GARY D. SLAVENS; JANE AND JOHN  
DOES 1-10; and DOE BUSINESS ENTITIES  
1-10,

Defendant.

**ORDER APPOINTING  
SPECIAL MASTER**

Case No. 4:19-cv-00058-DN-PK

District Judge David Nuffer

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Review and consideration of the record, taking into account fairness to the parties (including likely expenses and efficiency), confirm that it is appropriate that a special master is hereby appointed under Fed. R. Civ. P. 53 and 18 U.S.C. § 1836(b)(2)(D)(iv). The special master must locate and isolate all misappropriated trade secret information and facilitate the return of unrelated property and data to the person from whom the property was seized. This appointment is warranted by exceptional circumstances presented generally by seizure orders under the Defend Trade Secrets Act and, in this case, by the specific Order entered; the expected complexity and the amount and nature of data and volume of papers; and by the likelihood that *in camera* inspection, taking of evidence, and high-level discussion with technical experts may be needed to rule on these issues. This work should be accomplished, to the extent possible, by

someone other than the judge to whom this litigation has been assigned due to the accelerated schedule in the case.

IT IS HEREBY ORDERED that:

1. *Appointment.* Philip J. Favro of Driven, Inc., is appointed under Rule 53 as special master to locate and isolate all misappropriated trade secret information and to facilitate the return of unrelated property and data to the person from whom the property was seized and for such other matters as may be referred to such special master by the court, such as resolution of privilege claims and disputes under the protective order arising out of the seizure of trade secrets. The special master shall execute and be bound by the Non-Disclosure Agreement attached to the Seizure Order.

2. *Procedures.* The special master shall proceed with all reasonable diligence and take all appropriate measures to perform the assigned duties fairly and efficiently. The special master shall have the rights, powers, and duties provided in Rule 53 (including holding evidentiary hearings) necessary to locate and isolate all misappropriated trade secret information and to facilitate the return of unrelated property and data to the person from whom the property was seized. The special master may adopt such procedures as are not inconsistent with that rule or with this or other orders of the court to fulfill the special master's duties. Until directed otherwise by the special master or the court, any person asserting a claim to the return of unrelated property and data shall file a motion that will specifically identify the document or other data, and any circumstance or characteristic supporting the claim to the return of unrelated property and data. When appropriate, the special master may require that this documentation be verified or presented by testimony under oath. The special master may, if conducting an evidentiary hearing or taking evidence by submissions, compel, take, and record evidence. The

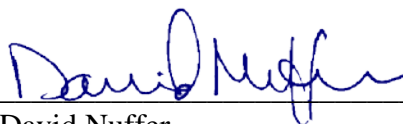
special master may communicate ex parte with the court but shall not communicate ex parte with the parties, except to the extent permitted by statute, court rule, and the Utah Rules of Professional Conduct.

3. *Reports.* The special master shall make findings of fact and conclusions of law with respect to the matters presented by the parties and shall report expeditiously to the court pursuant to Rule 53(d) and (e). Unless directed by the court or believed advisable by the special master, the report shall not be accompanied by a transcript of the proceedings, the evidence, or the exhibits. Such parts of the report, if any, that may be confidential shall be filed under seal pending further order of the court. The timing and review of the parties' objections to—or motions to adopt or modify—the special master's procedural decisions or findings of fact and conclusions of law are governed by Rule 53(f).

4. *Fees and Expenses.* Compensation, at rates approved by the court, shall be paid to the special master by Plaintiffs on a periodic basis, as billed by the special master, together with reimbursement for reasonable expenses incurred by the special master and shall be a taxable cost in the case. Allocation of the special master's compensation among the parties may be amended at a later date, on motion of a party or recommendation by the special master. The special master may employ other persons to provide clerical and secretarial assistance, who shall be under the supervision and control of the special master, who shall take appropriate action to ensure that such persons preserve the confidentiality of matters submitted to the special master for review.

Signed September 4, 2019.

BY THE COURT



David Nuffer  
United States District Judge