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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

DEVIN A. WHITTIER, individually,  
  
Plaintiff,

v.

SEATTLE TUNNEL PARTNERS, a  
joint venture; and HARRIS REBAR  
SEATTLE, INC., a Delaware  
corporation,

Defendants.

No. 2:17-CV-00751-SAB

ORDER SETTING SETTLEMENT  
CONFERENCE

--- ACTION REQUIRED ---

Settlement Offer due: 01/18/2024  
Response to Offer due: 01/19/2024  
*In Camera* Letters due: 01/23/2024  
Settlement Conference: 01/24/2024

With the agreement of the parties to this action, a settlement conference shall commence on **Wednesday, January 24, 2024 at 9:00 a.m.**, before the undersigned, in the United States Courthouse located in Seattle: 700 Stewart Street, Seattle, Washington 98101.

The purpose of the settlement conference is to permit an informal discussion among the attorneys, parties, non-party indemnitors or insurers, and this magistrate judge of every aspect of the lawsuit bearing on its settlement value.

**I. MEDIATION FORMAT**

Settlement conferences typically are scheduled for a full, uninterrupted business day. The Court generally will use a mediation format: that is, a joint introductory session followed by private caucusing by the Court with each side. The Court expects the parties and the party representatives to be fully prepared to

1 participate. The Court encourages all parties to keep an open mind, to reevaluate  
2 their previous positions, and to discover creative means for resolving the dispute.

3 Counsel who will try the case, and all named parties, must be **physically**  
4 **present** at this conference in Seattle, Washington, and ready to proceed at 9:00  
5 a.m. The person with full settlement authority must be available and must have the  
6 ability, within his or her discretion, to permit payment in full of the request for  
7 relief under the claims, counterclaims, and cross-claims, up to the limits of the  
8 opposing party's settlement demand that is produced as a result of this order as  
9 provided below. The parties are responsible for timely advising any involved non-  
10 party insurance company of the requirements of this Order. This magistrate judge  
11 may, in his discretion, converse with the lawyers, the parties, the insurance  
12 representatives, or any one of them separately, prior to and during the conference.

## 13 II. SUBMISSIONS

14 On or before **January 18, 2024**, Plaintiff shall serve upon Defendants, with  
15 an *in camera* copy to the undersigned, a written offer of settlement, which includes  
16 monetary and non-monetary components, if any, with supporting reasons, and with  
17 an itemization of Plaintiff's damages, unless an itemization of damages previously  
18 has been provided. On or before **January 19, 2024**, Defendants shall serve  
19 Defendants' counter-offers and supporting reasons upon Plaintiff, and provide an  
20 *in camera* copy to the undersigned. Copies shall be emailed to:

21 [EkstromOrders@waed.uscourts.gov](mailto:EkstromOrders@waed.uscourts.gov)

22 Failure to comply with this requirement may result in cancellation or  
23 rescheduling of the settlement conference.

24 In preparation for the settlement conference, each party shall submit an *in*  
25 *camera* letter, labeled confidential, to the undersigned on or before **11:00 a.m.,**  
26 **PST**, on **January 23, 2024**. Do not file copies of these letters on the court docket,  
27 and do not serve these letters on the opposing party. The *in camera* letters shall set  
28 forth the following:

- 1 1. Name and title of the client who will be present throughout the  
2 conference and will be authorized to enter into a settlement  
3 agreement, and the names and titles of any other persons who will  
4 accompany the party to the conference;
- 5 2. A brief analysis of key issues involved in the litigation;
- 6 3. A description of the strongest and weakest points in the party's case,  
7 both legal and factual (the parties are invited to include as letter  
8 attachments copies of key depositions);
- 9 4. A description of the strongest and weakest points in the opponent's  
10 case, both legal and factual;
- 11 5. Itemization of damages, fees, and costs;
- 12 6. Status of any settlement negotiations, including the last settlement  
13 proposal made by the party and opposing parties;
- 14 7. Settlement proposal the party believes to be fair; and
- 15 8. Settlement proposal the party is willing to accept to conclude the  
16 matter and stop the expense of litigation.

17 *In camera* copies shall be emailed to: [EkstromOrders@waed.uscourts.gov](mailto:EkstromOrders@waed.uscourts.gov)

18 Failure to submit an *in camera* letter may result in cancellation or rescheduling of  
19 the settlement conference.

20 All communications made in connection with the settlement conference are  
21 confidential and will not be disclosed. Any documents requested and submitted for  
22 the settlement conference will be maintained in chambers and will be destroyed  
23 after the conference. Neither the settlement conference statements nor any  
24 communications occurring during the settlement conference can be used by any  
25 party with regard to any aspect of the litigation or trial of this case.

### 26 **III. OTHER PROTOCOLS**

27 The Court expects the parties to address each other with courtesy and  
28 respect. Parties are encouraged to be frank and open in their discussions. As a  
result, statements made by any party during the settlement conference are not to be  
used in discovery and will not be admissible at trial. The Court further expects the

1 parties to proceed in good faith, to anticipate a settlement, and have available at the  
2 time of the conference a “settlement agreement” in a form acceptable to them for  
3 signature by all parties when a settlement is reached.

4 **IT IS SO ORDERED.**

5 DATED January 16, 2024.



*Alexander C. Ekstrom*

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ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE

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