

**DOYLE LAW GROUP**

5010 East Shea Blvd., Suite A-106  
Scottsdale, Arizona 85254  
Telephone: 602-494-0556  
Facsimile: 602-494-0621  
John C. Doyle, Esq. (Bar No. 010602)  
Jonathan L. Sullivan, Esq. (Bar No. 026619)  
*Attorneys for Plaintiffs*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

REBECCA BEASLEY, individually as the  
surviving spouse of ORVILLE THOMAS  
BEASLEY III, and as personal representative  
of the ESTATE OF ORVILLE THOMAS  
BEASLEY III; and ORVILLE THOMAS  
II and ANNA ELIZABETH BEASLEY,  
husband and wife, and parents of ORVILLE  
THOMAS BEASLEY III.

Plaintiffs,

v.

JOHN C. STUART and JANE DOE  
STUART, a married couple; JOHN and  
JANE DOES I-V; BLACK & WHITE  
CORPORATIONS VI-X; and ABC  
PARTNERSHIPS XI-XV;

Defendants.

**CASE NO. CV2010-050624**

**RULE 16 JOINT PRETRIAL  
MEMORANDUM**

**(Assigned to the Honorable Linda Miles)**

The Parties, by and through undersigned counsel, respectfully submit their Rule 16 Joint Pretrial Memorandum, along with a proposed Scheduling Order as follows:

I. Nature of the Case

This case arises out of Defendant John Stuart's alleged conduct on January 26, 2008. On the evening of January 29, 2008, Thomas Beasley, the driver, and Rebecca Beasley, passenger, traveled westbound on Pinnacle Peak Road, Scottsdale Arizona. At the same date and time, Stuart, in a different vehicle located behind Thomas Beasley, also traveled westbound on Pinnacle Peak Road.

1 Eventually, the traffic traveling westbound on Pinnacle Peak Road came to a red-traffic signal  
2 at Tatum Road. At the red light, Thomas Beasley guided his vehicle into the left-hand-turn lane in  
3 order to proceed south onto Tatum Road. Plaintiffs' allege that at this time Stuart yelled insults at  
4 Thomas Beasley and his wife, and then pulled his vehicle out in front of Thomas Beasley's vehicle,  
5 preventing Beasley's vehicle from continuing on in the left-hand-turn lane.

6 Plaintiffs allege that after being unable to move his vehicle, Thomas Beasley exited his vehicle  
7 and started to walk over to Stuart's vehicle. Plaintiffs allege that Stuart maneuvered his vehicle  
8 backwards and then forwards. Plaintiffs allege that Stuart displayed a firearm to Beasley. Upon seeing  
9 the weapon Thomas Beasley slowly walked backwards, with his hands in the air, in an attempt to return  
10 to his vehicle.

11 Mr. Stuart alleges Mr. Beasley entered through the driver's side of Mr. Stuart's vehicle in an  
12 effort to fight him. Mr. Stuart alleges Mr. Beasley was visibly drunk. Mr. Stuart alleges that after Mr.  
13 Beasley entered through Mr. Stuart's window to fight him, Mr. Beasley was shot. Mr. Beasley's blood  
14 alcohol level later reflected that he was legally intoxicated at the time of the shooting.

15 Plaintiffs allege that while Thomas Beasley was walking away from Stuart's vehicle Stuart fired  
16 the gun, fatally wounding Thomas Beasley. Stuart immediately left the area and was later apprehended  
17 by the police.

18 Upon seeing her husband shot Mrs. Beasley exited her vehicle screaming and ran to her  
19 husband. Mr. Beasley watched her husband die.

20 Plaintiffs allege that Stuart shot and killed their husband and son on January 26, 2008. Plaintiffs  
21 allege that Defendant Stuart intentionally or negligently caused Plaintiffs damages when he shot and  
22 killed Thomas Beasley. John Stuart denies this, asserting a number of defenses, including self defense.

23 Mr. Stuart asserts his Fifth Amendment right against incrimination. He does not stipulate to  
24 any of the facts asserted by Plaintiffs or Plaintiffs' counsel.

## 25 II. Contested Issues:

26 Defendant's Answers deny all liability. Because there is a pending criminal trial regarding Mr.  
Beasley's death, Mr. Stuart has asserted his fifth-amendment rights with respect to his deposition  
and discovery. Nonetheless, Mr. Stuart will provide a Rule 26.1 Disclosure Statement before this  
pretrial conference which will be incomplete due to his assertion of his Fifth Amendment rights.

From Mr. Stuart's perspective the contested issues are as follows:

1           1. Whether there is comparative fault. Mr. Stuart alleged that Mr. Beasley was at fault for  
2 exiting his motor vehicle, threatening and charging Mr. Stuart (who remained in his vehicle at all  
3 times) entering into a physical struggle with Mr. Stuart in Mr. Stuart's vehicle and causing Mr.  
4 Stuart to have to defend and protect himself and his passenger. Because Mr. Beasley was legally  
5 intoxicated at the time of the parties' altercation, Mr. Stuart reserves the right to argue that other  
6 parties and/or non-parties, such as the bar that served Mr. Beasley, were at fault either all or in part  
7 for causing the death of Mr. Beasley.

8           2. Whether Mr. Beasley assumed the risk. Mr. Stuart alleges that Mr. Beasley assumed  
9 the risk when he engaged in an argument with Mr. Stuart, exited his vehicle and began to threaten  
10 and charge Mr. Stuart, and then attempted to gain control of Mr. Stuart's gun inside Defendant's  
11 vehicle. Beasley was aware or reasonably should have been aware of the risk that his unreasonable  
12 behavior created, and, therefore, assumed the risk of such conduct.

13           3. Whether Mr. Beasley was under the influence of alcohol and/or intoxicating drugs at  
14 the time he began to fight with Mr. Stuart and, therefore, A.R.S. § 12-711 may bar this action.

15           4. Whether A.R.S. § 12-712(a) and A.R.S. § 12-712(b) bar this action because at the  
16 time of his death, Mr. Stuart alleges that Mr. Beasley was committing felonies and misdemeanors,  
17 and, therefore, that statute may bar this action.

18           5. Whether A.R.S. § 12-716 bars recovery and provides a presumption that Mr.  
19 Stuart's conduct was reasonable at the time of the incident.

20           6. Whether Mr. Beasley's alleged willful and wanton conduct bars any recovery for  
21 this action against Mr. Stuart. Specifically, whether Mr. Beasley's alleged conduct to argue with  
22 Mr. Stuart while intoxicated, exit his vehicle to threaten and then charge Mr. Stuart, and to engage  
23 in a physical struggle with Mr. Stuart for his gun were all intentional willful and wanton acts done  
24 by Mr. Beasley with knowledge that serious injury to Mr. Stuart probably will result and/or were  
25 done with a wanton and reckless disregard of the possible results.

26           7. Whether non-parties may be at fault for allegedly over-serving alcohol to both Mr.  
Beasley and Rebecca Beasley to the point of extreme intoxication. As a result of the alleged

1 intoxication, Beasley and Rebecca Beasley had reduced inhibition and aggressive behavior,  
2 resulting in the confrontation on the roadway.

3 8. Whether the allegation that Mr. Beasley was violently attacking Mr. Stuart and Mr.  
4 Stuart acted in self defense or in the defense of others, when attempting to prevent Mr. Beasley  
5 from taking control of the firearm in question.

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7 III. Rule 16 Deadlines

8 A. Plaintiffs have already provided their Initial Disclosure Statement, Mr. Stuart will  
9 provide a Rule 26.1 Disclosure Statement before this pretrial conference but it will not  
10 be complete as Mr. Stuart has asserted his Fifth Amendment rights pending resolution  
11 of the companion criminal case.

12 B. The identities and subject areas of expert testimony shall be disclosed by

13 1. Plaintiffs propose **December 1, 2010.**

14 2. Mr. Stuart proposes **February 1, 2011.**

15 C. Plaintiffs' final expert disclosure shall be served by:

16 1. Plaintiffs propose **December 15, 2010.**

17 2. Mr. Stuart proposes **April 1, 2011.**

18 D. Defendant Stuart's final expert disclosure shall be exchanged by:

19 1. Plaintiffs propose **December 15, 2010.**

20 2. Mr. Stuart proposes **May 1, 2011.**

21 E. Rebuttal expert disclosures shall be exchanged by:

22 1. Plaintiffs propose **January 1, 2011.**

23 2. Defendant proposes **June 1, 2011.**

24 F. Final non-expert disclosures shall be exchanged by:

25 1. Plaintiffs propose **January 7, 2011.**

26 2. Defendant proposes **June 1, 2011.**

G. Written discovery requests shall be propounded by:

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1. Plaintiffs propose **December 15, 2010**.

2. Defendant proposes **June 1, 2011**.

H. Depositions shall be completed by:

1. Plaintiffs propose **January 15, 2011**.

2. Defendant proposes **September 1, 2011**.

I. Discovery shall be completed by:

1. Plaintiffs propose **February 1, 2011**.

2. Defendant proposes **November 1, 2011**.

J. Any motions to amend the pleadings shall be filed by:

1. Plaintiffs propose **January 1, 2011**.

2. Defendant proposes **March 1, 2011**.

K. The parties remaining in this action shall participate in comprehensive mediation by:

1. Plaintiffs propose **December 15, 2010**.

2. Defendant proposes **June 1, 2011**.

L. The date by which all dispositive or partially dispositive motions shall be filed by:

1. Plaintiffs propose **February 4, 2011**.

2. Defendant proposes **September 1, 2011**.

IV. Other Discovery Issues:

A. Depositions

1. Plaintiffs' Anticipates Taking:

1. At this time Plaintiffs do not plain on taking additional depositions, upon the completion of further disclosure/discovery Plaintiffs may seek additional depositions.

2. Defendant's Anticipates Taking depositions of the following:

1. Every witness to the shooting of Mr. Beasley, at least sixteen (16)

witnesses.

2. Every officer involved in the investigation of the shooting, chain of custody of evidence, and grand jury, estimated to be at least twelve (12).
3. Plaintiffs.
4. Any and all of Plaintiffs' expert witnesses.
5. Upon the completion of further disclosure/discovery Defendants may seek additional depositions.

B. Plaintiffs' Discovery

1. Plaintiffs have provided an Initial Rule 26.1 Disclosure Statement to Defendant and have taken the deposition of Defendant. At this time Plaintiff may seek to have Defendant evaluated and will produce whatever documents are generated from said exam. Other than that, Plaintiff is unable to determine if additional discovery will be needed.

C. Defendant's Discovery

1. Defendant intends to depose Plaintiffs, all witnesses, and officers involved with the shooting. Defendant also intends to hire several expert witnesses and depose any expert witnesses Plaintiffs may disclose. As the parties are just at the start of discovery, Defendant may need to complete additional discovery.

V. Miscellaneous Items:

- A. All counsel agree that time limits under Rule 38.1 should be waived.
- B. Plaintiffs propose trial proceedings be recorded on a CD-Rom or DVD.
- C. Defendant proposes trial proceedings be recorded through a court reporter.
- D. The parties propose a trial date:
  1. Plaintiffs propose a four day trial, sometime after February 28, 2011.
  2. Defendant proposes a sixteen day trial, sometime after December 1, 2011.
- E. Reasons For Disagreements in Joint Pretrial Conference Memorandum:
  1. **Plaintiffs' Position:** The Parties have been unable to agree to discovery and trial deadlines due to a difference in opinion in how long discovery will take. Defense counsel is currently seeking the depositions of 16 witnesses to the

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events and 12 police officers, none of which are parties to this action or experts. Under Rule 30 Ariz.R.Civ.P., Plaintiffs object to Defense counsel's request to take such an excessive amount of depositions. The deposition of 16 witnesses and 12 police officers are unnecessarily cumulative, especially considering that the witnesses have already provided statements to the police and are available in the relevant police report. Defendant's request for 28 depositions of non-parties is improper and will cause unnecessary delay in this matter. Additionally, Defendant has already failed to timely submit his Initial Disclosure Statement, this behavior already indicates Defendant are intentionally delaying this case. Further, Plaintiffs are advocating that this matter timely proceed due to the fact that Plaintiff Rebecca Beasley is currently undergoing cancer treatment, as such her involvement in this case and its conclusion should be handled with all practical speed.

2. **Defendant's Position** Defendant is not unnecessarily delaying this matter. There is currently a pending criminal matter and Defendant will file a motion to stay this action pending the resolution of the criminal matter. The Court should grant this for several reasons. First, Defendant has a right to defend himself without jeopardizing his defense of the criminal matter. In addition, a criminal conviction or plea may narrow their issue to be litigated in this matter. See A.R.S. § 13-807.

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**RESPECTFULLY SUBMITTED** this 26th day of October, 2010.

DOYLE LAW GROUP

ALLEN & LEWIS, PLC

/s/ Jonathan L. Sullivan, Esq.  
John C. Doyle, Esq.  
Jonathan L. Sullivan, Esq.  
5010 E. Shea Blvd., Ste. A106  
Scottsdale, AZ 85254  
*Attorneys for Plaintiffs*

/s/ for: Jonathan Sullivan  
Robert K. Lewis, Esq.  
3300 North Central Ave. Ste. 2500  
Phoenix, Arizona 85012  
*Attorney for Defendant*

**ORIGINAL** filed this 26th day of  
October, 2010, via the Superior Court  
e-filing system, with:

Clerk of the Court  
Maricopa County Superior Court  
Northeast Division  
18380 N. 40th Street  
Phoenix, AZ 85032

**COPY** of the foregoing distributed by electronic  
filing this 26th day of October, 2010 to:

The Honorable Linda Miles  
Maricopa Superior Court  
Northeast Regional Center  
18380 N. 40th Street  
Phoenix, AZ 85032

**COPY** of the foregoing e-mailed  
this 26th day of October, 2010 to:

Robert K. Lewis, Esq.  
Allen & Lewis, PLC  
3300 North Central Ave. Ste. 2500  
Phoenix, Arizona 85012  
*Attorney for Defendant*

By: /s/ Whitney Stricker