

Exhibit 1

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6 SUPERIOR COURT OF ARIZONA
7 COUNTY OF MARICOPA

8 REBECCA BEASLEY, individually as the
9 surviving spouse of ORVILLE THOMAS
10 BEASLEY, III, and as personal
11 representative of the ESTATE OF ORVILLE
12 THOMAS BEASLEY, III; and ORVILLE
13 THOMAS, II and ANNA ELIZABETH
14 BEASLEY, husband and wife and parents of
15 ORVILLE THOMAS BEASLEY, III,

16 Plaintiffs,

17 vs.

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

23 Defendants.

No. CV2010-050624

**DEFENDANT STUART'S
SEPARATE STATEMENT OF
FACTS**

(Assigned to the Honorable Linda
Miles)

19 Defendant John Stuart ("Mr. Stuart") respectfully submits his Separate Statement of
20 Facts in opposition to Plaintiffs' Separate Statement of Facts:

- 21 1. On January 29, 2008 Mr. Stuart was driving an FJ Cruiser westbound on
22 Pinnacle Peak Road toward Tatum Road in Scottsdale. Cynthia Cantrell was a passenger
23 in the vehicle. See Affidavit of Cynthia Cantrell, dated December 7, 2010 attached as
24 **Exhibit 1**, ¶¶ 1-2.
- 25 2. When Mr. Stuart stopped the FJ Cruiser at the red traffic light at Tatum
26 Road, a white SUV was in the left hand turn lane. The driver of the white SUV, identified

1 as Orville Thomas Beasley, III ("Mr. Beasley"), began to yell from his car at Mr. Stuart.
2 Exhibit 1, ¶ 3.

3 3. After Mr. Stuart and Mr. Beasley exchanged angry words from their
4 respective vehicles, Ms. Cantrell observed Mr. Beasley exit his vehicle and charge the FJ
5 Cruiser in a rage. Exhibit 1, ¶¶ 3-5.

6 4. Mrs. Beasley, Mr. Beasley's wife and a passenger in their white SUV, will
7 confirm that Mr. Beasley became "upset and opened his door" to get out of their SUV.
8 Mrs. Beasley told the Police she "grabbed Tom [her husband] and told him 'No! No! No!'
9 He told her to let go of him" and he left their SUV to confront Mr. Stuart in the FJ Cruiser.
10 Phoenix Police Department Report #2008-80169255, dated 1/30/2008, pp. 8-9, attached as
11 **Exhibit 2**; [Defendant will supplement this citation with relevant portions of Rebecca
12 Beasley's deposition transcript when it has been transcribed].

13 5. Mrs. Beasley further told Police she had to try to restrain her husband from
14 leaving their SUV to go after Mr. Stuart, describing her husband as "mad, really mad."
15 Exhibit 2.

16 6. Mr. Beasley was demonstrably angry as he walked in front of the SUV
17 toward the Mr. Stuart's car window. Exhibit 1, ¶¶ 5.

18 7. Joshua Spade, the driver of a vehicle stopped directly behind Mr. Stuart's FJ
19 Cruiser at the intersection of Pinnacle Peak and Tatum Road also observed the fight
20 between Mr. Beasley and Mr. Stuart. Deposition of Joshua Spade, p. 12, l. 1-3, attached as
21 **Exhibit 3**.

22 8. Mr. Spade confirmed Mr. Beasley exited his SUV and approached Mr.
23 Stuart's vehicle at the driver's side window and that Mr. Beasley was walking more
24 aggressively than normal and appeared to be angry and agitated as he approached Mr.
25 Stuart's FJ Cruiser. Exhibit 3, p.16, ll. 5-14, p. 17, ll. 9-15.
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1 9. Stacey Strachan was also a witness to Mr. Beasley and Mr. Stuart's
2 alteration. Ms. Strachan was sitting in the driver's side of her vehicle at the intersection
3 of Pinnacle Peak and Tatum Road traveling eastbound when she observed Mr. Beasley, on
4 the other side of the intersection, exit his white SUV to approach the driver's side of the FJ
5 Cruiser. Deposition of Stacey Strachan, p. 10, ll. 3-24., p. 13, ll. 7-25; attached as Exhibit
6 4.

7 10. Ms. Strachan observed Mr. Beasley and Mr. Stuart engage in a verbal
8 argument and then observed Mr. Beasley reach for what appeared to her to be the handle
9 of the driver's side door of the FJ Cruiser to try to open it. Exhibit 4, p. 21, ll. 2-14.

10 11. After Mr. Beasley confronted Mr. Stuart at his car door window, Ms.
11 Cantrell observed Mr. Beasley attempt to punch Mr. Stuart several times through the
12 driver's side window while Mr. Stuart blocked the punches. Exhibit 1, ¶ 7.

13 12. Ms. Cantrell observed Mr. Beasley attempting to break Mr. Stuart's arm,
14 strangle Mr. Stuart, and pull him out of the FJ Cruiser. Mr. Stuart tried to pull Mr.
15 Beasley's hands off of his throat. Exhibit 1, ¶¶ 8-10.

16 13. Ms. Cantrell heard Mr. Beasley threaten to kill Mr. Stuart and Cynthia
17 Cantrell. Ms. Cantrell believed that Mr. Beasley would have killed Mr. Stuart if he were
18 not stopped. Exhibit 1, ¶¶ 11-12.

19 14. Mr. Spade confirmed that Mr. Beasley reached into Mr. Stuart's FJ Cruiser
20 through the driver's side window and appeared very angry while doing so. It appeared to
21 Mr. Spade that Mr. Stuart tried to open his driver's side door to get out of the vehicle,
22 presumably away from Mr. Beasley, but was unable to do so. It was at this point that Mr.
23 Spade observed Mr. Beasley was shot. Exhibit 3, p. 18, ll. 21-25; p. 19, ll. 2-8; p. 23, l. 2-
24 11.

25 15. Ms. Cantrell also observed a firearm in Mr. Stuart's FJ Cruiser discharge and
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1 saw Mr. Beasley shot while he was within an inch of the FJ Cruiser. Exhibit 1, ¶ 13.

2 16. Ms. Strachan will also confirm that when she observed what looked like
3 sparks and sounded like the pop of a gun, Mr. Beasley was standing "close" to the FJ
4 Cruiser. Exhibit 4, p. 29, ll. 5-13.

5 17. According to the Maricopa County Examiner's Autopsy Report Case # 08-
6 00640, 1/31/2008, prepared by Robert E. Lyon, D.O., Mr. Beasley had a blood alcohol
7 concentration of .19% at the time of his death. Maricopa County Medical Examiner's
8 Report, Case # 08-00640, 1/31/2008, prepared by Robert E. Lyon, D.O., attached as
9 Exhibit 5.

10 18. Mrs. Rebecca Beasley, Mr. Beasley's wife, admits that Mr. Beasley had
11 consumed alcohol at Greasewood Flats, the bar from which they were on their way home.
12 Exhibit 2; [Defendant will supplement with relevant portions of Rebecca Beasley's
13 deposition transcript].

14 19. Ms. Cantrell will confirm that Mr. Beasley's rage appeared to be fueled by
15 either intoxication or drugs. Exhibit 1, ¶ 5.

16 20. Toxicologist, William Joe Collier, holds the opinion to a reasonable degree
17 of toxicological probability that Mr. Beasley had 10.64 oz of 100 hundred proof alcohol in
18 his body at the time of death. See Affidavit of William Joe Collier, 12/21/2010, attached
19 as Exhibit 6, ¶¶ 5-7.

20 21. It is Mr. Collier's opinion to a reasonable degree of toxicological probability
21 that Mr. Beasley consumed anywhere from 12.65 to 15.68 oz of 100 hundred proof
22 alcohol, depending upon the time he began drinking, to achieve a blood alcohol
23 concentration of .19%. Exhibit 6, ¶ 9a-e.

24 22. It is Mr. Collier's opinion to a reasonable degree of toxicological probability
25 that Mr. Beasley's level of intoxication would have caused him to experience impaired
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1 judgment, resulting in foolish and risky decision-making. Exhibit 6, ¶ 10.a.

2 23. It is Mr. Collier's opinion to a reasonable degree of toxicological probability
3 that Mr. Beasley's normal inhibitions would be severely reduced or eliminated as a result
4 of his intoxication. Exhibit 6, ¶ 10.b.

5 24. It is Mr. Collier's opinion to a reasonable degree of toxicological probability
6 that Mr. Beasley's level of intoxication would have caused him to experience exaggerated
7 emotional states. For example, if Mr. Beasley was angry, his anger would quickly turn to
8 rage under the influence of all the alcohol he consumed. Exhibit 6, ¶ 10.c.

9 25. Homicide Detective Paul Dalton investigated Mr. Beasley's death and
10 concluded that Mr. Beasley was partially at fault for his death. Deposition of Detective
11 Paul Dalton, p. 133, 18-25; p. 134-135, l. 4, attached as Exhibit 7.

12 26. With respect to fault, Detective Dalton testified: "So it's kind of--you know?
13 Is it his fault? Yeah. He came out of the car and he's now dead. Is it Stuart's fault? Yes,
14 he shot an unarmed man. So where do we go from here?" Exhibit 7, p. 134, ll.23 - p.
15 135, ll 1-4.

16 DATED this 23rd day of December, 2010.

17 ALLEN & LEWIS, PLC

18
19 By /s/ Shannon O'Connell
20 Robert K. Lewis
21 Shannon O'Connell
22 Attorneys for Defendants
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ALLEN & LEWIS, PLC

CERTIFICATE OF SERVICE

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I hereby certify that on December 23, 2010, I electronically filed the foregoing document with the Court and mailed a copy this same date to the following:

John C. Doyle
Jonathan L. Sullivan
Doyle Law Group
5010 E. Shea, Suite A-106
Scottsdale, Arizona 85254
Attorneys for Plaintiffs

By /s/ Jamie Tanner

Exhibit 2

AFFIDAVIT OF WILLIAM JOE COLLIER

1
2 STATE OF ARIZONA)
) ss.
3 COUNTY of MARICOPA)

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5 1. I, WILLIAM JOE COLLIER, under oath, hereby declare the following:

6 2. I was the Director in charge of the Phoenix Police Scientific Crime
7 Detection Laboratory for over 29 years.

8 3. I have worked in the fields of toxicology, drugs, forensic chemistry and
9 criminalistics for over 47 years.

10 4. I have appeared as an expert witness in Military Courts, U.S. District Court,
11 Federal Immigration Hearings, Superior Courts, Justice and Municipal Courts on scientific
 evidence, toxicology, drugs, narcotics, Criminalistics and firearm identification.

12 5. I have been hired by the firm of Allen & Lewis, PLC, to provide opinions
13 regarding the intoxication of Mr. Orville Thomas Beasley, III, on the evening of January
14 29, 2008.

15 6. My opinions are based on my review of the following: (1) Phoenix Police
16 Department Report No. 2008-80169255; (2) Maricopa County Medical Examiner's
17 Autopsy Report Case # 08-00640, dated 01/31/2008, prepared by Robert E. Lyon, D.O.
 ("Autopsy Report"); (3) Report of Toxicological Examination, dated 03/03/2008, prepared
 by Norman A. Wade, Laboratory Director.

18 7. According to the Autopsy Report, Mr. Beasley weighed 210 pounds on the
19 evening of January 29, 2008, and had a blood alcohol concentration of .19%.

20 8. Based on statements from the Police Report, Mr. Beasley was at work from
21 6:00 a.m. until 2:30 p.m. Beasley then went home, picked up his wife, Rebecca Beasley,
22 and arrived at the FBR Open by 3:30 p.m. Mr. Beasley left the FBR and arrived at
23 Greasewood Flats near Sunset. A receipt from Greasewood Flats in Mr. Beasley's pocket
24 indicates he bought food at 6:23 p.m. at Greasewood Flats. Mrs. Beasley stated to police
 that Mr. Beasley consumed at least 1 ½ Jack Daniel's whiskey and soda at Greasewood
 Flats.

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1 9. Based upon my experience, training and review of the documents listed
2 above, I have come to the following opinions to a reasonable degree of toxicological
3 probability:

4 A. If Mr. Beasley had started drinking at the FBR Open five (5) hours
5 before his death, he would have had to consume 15.68 oz of 100 proof alcohol to reach a
6 blood alcohol concentration of .19% at the time of the shooting.

7 B. If Mr. Beasley had started drinking four (4) hours before his death, he
8 would have had to consume 14.67 oz. of hundred proof alcohol.

9 C. If Mr. Beasley had started drinking three (3) hours before his death,
10 he would have had to consume 13.66 oz. of hundred proof alcohol.

11 D. If Mr. Beasley had started drinking two (2) hours before his death, he
12 would have had to consume 12.65 oz. of hundred proof alcohol.

13 E. Mr. Beasley had 10.64 oz. of hundred proof alcohol in his body at the
14 time of his death.

15 F. Because Mr. Beasley's vitreous reading revealed a .19% blood
16 alcohol concentration, I know that Mr. Beasley's body was still absorbing alcohol at the
17 time of his death and that he must have just recently consumed an alcoholic beverage.

18 10. Based on Mr. Beasley's blood alcohol level, my training, knowledge and
19 experience, it is my opinion to a reasonable degree of toxicological probability:

20 A. That Mr. Beasley would have had impaired judgment that would
21 cause him to make risky or foolish decisions he would not otherwise make sober;

22 B. That Mr. Beasley's normal inhibitions were severely reduced and/or
23 eliminated; and

24 C. That Mr. Beasley would experience exaggerated emotional states.
25 For example, Mr. Beasley's experience of anger would quickly turn into rage under the
26 influence of this much alcohol

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11. The above opinions are true to a reasonable degree of toxicological probability and correct based on my experience, training and review of the above records.

William Joe Collier
William Joe Collier

SUBSCRIBED AND SWORN TO BEFORE ME this 21st day of December, 2010, by William Joe Collier.

Erica Cartwright
Notary Public

My commission expires:

Aug. 28, 2013



BIOGRAPHY

WILLIAM JOE COLLIER CONSULTANT IN FORENSIC SCIENCE

Mr. Collier was the Director in charge of the Phoenix Police Scientific Crime Detection Laboratory for over 29 years. For eight years he was on the staff of the Department of Police Science at Phoenix College where he taught courses on Drugs, Narcotics and Criminalistics. He also taught courses at Glendale Community College, lectured at Arizona State University and the Phoenix Police Academy. He is a graduate of Baylor University and has attended several FBI Academy Seminars.

Mr. Collier worked in the fields of Toxicology, Drugs Forensic Chemistry and Criminalistics for over 47 years and is a nationally recognized expert in Forensic Science.

Mr. Collier has consulted on Forensic Science evidence in Arizona, California, Nevada, Montana, Florida, Texas, Utah and New Mexico. Cases have been examined for a number of Federal Agencies, The D.E.A., F.B.I., U.S. Customs, U.S. Postal Service, Military Investigative Units as well as state and local government and Police Agencies.

He has appeared as an expert witness in Military Courts, U.S. District Court, Federal Immigration Hearings, Superior Courts, Justice and Municipal Courts on Scientific evidence, toxicology, drugs, narcotics, Criminalistics and firearm identification.

He has lectured on the combined effects of alcohol and drugs on driving skills and Dram Shop evidence.

Mr. Collier is a Fellow in the American Academy of Forensic Sciences, a member of the California Association of Criminalists, Association of Firearm and Tool Examiners, American Chemical Society and other professional and scientific organizations. He has presented a number of scientific papers in Forensic Science and Law Enforcement.