

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**

**Civil Division**

Estate of ROBERT E. WONE, by  
KATHERINE E. WONE,  
as Personal Representative,

*Plaintiff,*

v.

JOSEPH R. PRICE, VICTOR J.  
ZABORSKY,  
and DYLAN M. WARD,

*Defendants.*

Civil Action No. 008315-08

The Honorable Brook Hedge

Next Court Event: Status Hearing  
September 10, 2010

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**STATEMENT IN SUPPORT OF PLAINTIFF'S PROPOSED SCHEDULING ORDER**

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Pursuant to the Court's Order Lifting Stay and Requesting Proposed Schedule dated July 7, 2010, Plaintiff Estate of Robert E. Wone, by Katherine E. Wone ("Mrs. Wone"), by and through undersigned counsel, hereby respectfully submits the proposed Scheduling Order attached hereto as Exhibit A. A non-write protected copy of this proposed Scheduling Order is also being forwarded to [judgehedgeserve@dcsc.gov](mailto:judgehedgeserve@dcsc.gov).

In support of the proposed Scheduling Order, Mrs. Wone states as follows:

1. On August 2, 2006, Robert E. Wone was murdered in the District of Columbia, in the home of Defendants Price, Zaborsky, and Ward. Compl. ¶ 2. More than two years later, on October 27, 2008, the Metropolitan Police Department ("MPD") filed in Superior Court an affidavit in support of Mr. Ward's arrest. Compl. ¶¶ 19, 21. Shortly after the

affidavit's release, Messrs. Price, Zaborsky, and Ward were indicted for obstruction of justice, tampering with evidence, and conspiracy. *See id.* ¶ 20.

2. On November 25, 2008, Mrs. Wone filed this civil action against Defendants Price, Zaborsky, and Ward for damages under the laws of the District of Columbia for wrongful death, negligence, spoliation of evidence, and conspiracy.

3. On February 26, 2009, this Court ordered this action stayed in its entirety “through the criminal trial court proceedings.” Order Granting Joint Motion to Stay Civil Proceedings Pending Criminal Prosecution at 2 (Feb. 26, 2009).

4. On June 29, 2010, after a six-week bench trial in the criminal case, the defendants were acquitted. However, in finding that the defendants' guilt could not be established beyond a reasonable doubt—the highest standard of proof known to the law—the court expressed its view that “Mr. Price very likely tampered with and altered the murder weapon, and that he lied about his conduct in this regard to police with obstructive purpose.” *United States v. Price, et al.*, No. 08-CF1 27068, Slip Op. at 25 (D.C. Sup. Ct. June 29, 2010); *see also id.* at 27 (“I find that it is very likely Mr. Price altered or destroyed evidence at the scene with the specific intent to reduce its value as evidence in the imminent investigation of the death of Robert Wone.”). The court further concluded that, “It is very probable that the government's theory is correct, that even if the defendants did not participate in the murder some or all of them knew enough about the circumstances of it to provide helpful information to law enforcement and have chosen to withhold that information for reasons of their own.” *Id.* at 35.

5. In addition, the court wholly rejected the defendants' contention that an unknown “intruder” entered their residence and murdered Mr. Wone, finding that “the murder of Robert Wone was not committed by an intruder unknown to the defendants.” *Id.* at 20.

“Overall, the defendants’ story that an intruder committed the offense is incredible beyond a reasonable doubt,” the court said. *Id.* at 34.

6. On July 7, 2010, the Court lifted the stay in this action and ordered counsel to “submit a proposed Scheduling Order by August 6, 2010, and, if agreement is not reached, separate proposed orders shall be submitted.” Order Lifting Stay and Requesting Proposed Schedule (July 7, 2010).

7. Since the Court’s July 7, 2010 order, the parties have exchanged proposed Scheduling Orders, but have been unable to reach agreement. Although Mrs. Wone modified her initial proposed schedule in light of the Defendants’ proposal, Mrs. Wone could not agree to the truncated schedule proposed by the Defendants, which would close all discovery on December 20, 2010, only four-and-a-half months from now.

8. During the more than 16 months that this action was stayed, Mrs. Wone was precluded from taking even the most basic discovery from the Defendants or from third parties regarding her husband’s murder. Indeed, her initial discovery requests to Defendants—which were served 20 months ago—still have not been answered, and Defendants have not produced even one document in the case.<sup>1</sup>

9. In light of Mrs. Wone’s virtually complete inability to take discovery until very recently, we submit that Plaintiff’s proposed schedule, which provides for discovery to continue until March 15, 2011, is more than reasonable.

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<sup>1</sup> At the September 18, 2009 status conference in this matter, the Court stated that, “within 45 days of the . . . verdict all discovery must be responded to that is outstanding.” Tr. of Sept. 18, 2009 Hearing at 6. Accordingly, the Defendants’ responses to Plaintiff’s first set of interrogatories and document requests are due on August 13, 2010 -- 45 days from the June 29, 2010 verdict in the criminal case. This deadline is reflected in Plaintiff’s proposed Scheduling Order.

10. For the foregoing reasons, Mrs. Wone respectfully requests that the Court adopt the proposed Scheduling Order attached hereto as Exhibit A.

Respectfully submitted,

/s/ Benjamin J. Razi

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Dated: August 6, 2010

*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 6, 2010, I caused a copy of the foregoing Plaintiff's Proposed Scheduling Order to be served on all parties via CaseFileXpress on the following counsel:

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/s/ Benjamin J. Razi

Benjamin J. Razi

# **EXHIBIT A**

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**SCHEDULING ORDER**

The Court hereby enters the following Scheduling Order in the above-captioned matter:

<b>Event</b>	<b>Deadline</b>
Defendants' Responses to Plaintiff's First Set of Interrogatories and Document Requests	August 13, 2010
Deadline for Discovery Requests	December 15, 2010
Exchange Lists of Fact Witnesses	December 15, 2010
Proponent's Rule 26(b)(4) Statement	January 14, 2011
Opponent's Rule 26(b)(4) Statement	February 15, 2011
All Discovery Closed	March 15, 2011
ADR (Mediation/Case Evaluation)	March 15, 2011 -- April 14, 2011
Deadline for Filing Motions	April 14, 2011

<b>Event</b>	<b>Deadline</b>
Dispositive Motions Decided	May 13, 2011
Final Pretrial Conference	May 13, 2011
Trial	June 13, 2011

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The Honorable Brook Hedge

Dated: \_\_\_\_\_, 2010