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Nov 16 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
The Honorable Donald B. Hocker, Plea Judge
The Honorable William P. Keesley, Sentencing Judge
The Honorable Brooks P. Goldsmith, Post-conviction Relief Judge

Case No.: 2020-000013

Destiny H. Mills,

Petitioner.

vs.

State of South Carolina,

Respondent,

SUPPLEMENTAL APPENDIX

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INDEX

Transcript of Deposition of Destiny Mills dated April 26, 2016..... 1

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF LEXINGTON

3 BRUCE CARLTON JOHNSON, as personal
4 representative of the ESTATE OF OLIVIA
5 KATHERINE JOHNSON, deceased,

6 Plaintiff,

7 vs. CASE NO. 2016-CP-32-00104

8 APPLEBEE'S RESTAURANTS, LLC, d/b/a APPLEBEE'S,
9 CAROLINA ALE HOUSE OPERATING CO., LLC, d/b/a
10 CAROLINA ALE HOUSE, MT. PLEASANT WINGS, LLC,
11 d/b/a WILD WING CAFE, THE BRITISH BULLDOG, LLC,
12 d/b/a THE BRITISH BULLDOG PUB,

13 Defendants.

14 VIDEOTAPE
15 DEPOSITION OF: DESTINY HEATHER MILLS

16 DATE: April 26, 2016

17 TIME: 2:22 p.m.

18 LOCATION: Law Offices of
19 THE RICK HALL LAW FIRM, LLC
20 301 Gibson Road
21 Lexington, South Carolina

22 TAKEN BY: Counsel for the Plaintiff

23 REPORTED BY: SANDRA E. BERKELAND, CCR

24 A. WILLIAM ROBERTS, JR., & ASSOCIATES

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ALSO PRESENT:

Nicholas C. Stello, Videographer
Teresa Mills

(INDEX AT REAR OF TRANSCRIPT)

1 VIDEOPHOTOGRAPHER: We are now on the
2 record. Today's date is April 26, 2016. The time
3 is two 2:22 p.m. This is the video deposition of
4 Destiny Mills taken by counsel for the plaintiff.
5 The location is 301 Gibson Road, Lexington, South
6 Carolina.

7 This deposition is taken in the matter
8 of Bruce Carlton Johnson, as personal
9 representative of the Estate of Olivia Katherine
10 Johnson, deceased, versus Applebee's Restaurant,
11 LLC, d/b/a Applebee's, et al.

12 Would counsel please introduce yourself
13 for the record.

14 MR. HALL: Yes, my name is Rick Hall,
15 and I represent the personal representative of
16 the Estate of Olivia Johnson. His name is Bruce
17 Carlton Johnson.

18 MR. CAVANAUGH: My name is Eric
19 Cavanaugh. I represent Columbiana Wings, LLC
20 d/b/a/ Wild Wing Cafe.

21 MR. REEVES: I'm Phil Reeves. I
22 represent Green Apple, LLC.

23 MR. SWEENEY: Billy Sweeny on behalf of
24 Carolina Ale House.

25 MS. HEYWARD: Caitlin Heyward on behalf



1 of the British Bulldog Pub. 5

2 VIDEOPHOTOGRAPHER: Will the court reporter
3 please swear in the witness.

4 DESTINY HEATHER MILLS
5 being first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. HALL:

8 Q. Ms. Mills, I'm here to take your
9 deposition today. Would you please state your full
10 name on the record.

11 A. It's Destiny Heather Mills.

12 Q. And Ms. Mills, a deposition is a
13 question-and-answer session between a lawyer and a
14 witness. If I ask you anything that you do not
15 understand, would you please tell me?

16 A. Yes.

17 Q. And during the deposition, if we take a
18 break, and I don't know how long this is going to
19 go, but if we do, you're not allowed to discuss
20 your testimony with any of these lawyers. You can
21 talk about the sunshine, what you had for dinner,
22 but you can't take about your testimony.

23 Do you understand that?

24 A. Yes, sir.

25 Q. What is your current address?

1 A. /

2 Q.

3 A. Yes, sir.

4 Q. Who lives there with you?

5 A. My mother.

6 Q. And that's West Columbia or Cayce?

7 A. Lexington.

8 Q. What's the zip?

9 A.

10 Q. Okay. And were you intoxicated on the

11 night that you left the Wild Wing Cafe on Harbison

12 on or after midnight September 1st, 2015?

13 A. No.

14 Q. All right. And had you been drinking

15 that night?

16 A. I had been drinking.

17 Q. Okay. What were you drinking?

18 A. At Wild Wing?

19 Q. Yes.

20 A. At Wild Wing I had two cranberry

21 vodkas.

22 Q. All right.

23 A. With Red Bull.

24 Q. All right. Whenever you left the

25 British Bulldog Pub that night --

1 A. Uh-huh.

2 Q. -- were you intoxicated?

3 A. No.

4 Q. What did you drink there?

5 A. I had half a beer and it got spilled on
6 me when Tripp Graham, my passenger, dropped me.

7 Q. Okay. How did he drop you?

8 A. I was sitting on his lap and he had
9 been drinking since two o'clock that day.

10 Q. All right.

11 A. And he dropped me when I went to go sit
12 on him.

13 Q. Do you know where he had been that day?

14 A. As far as I know, he said he was at a
15 friend's house, but I know they were at, I believe
16 it was, Texas Roadhouse before me and Mariah, my
17 friend, met up with him.

18 Q. All right. Now have you talked to any
19 lawyer in here today -- before today other than
20 your own?

21 A. No.

22 Q. All right. And you've -- I'm not going
23 to ask you anything you discussed with Mr. Waites
24 because that's privileged.

25 Do you recall where you went that

1 evening?

2 A. Meaning?

3 Q. August the 31st, which places did you
4 go to?

5 A. I went to Applebee's to eat. I went to
6 Wild Wing, British Bulldog and Ale House --
7 Carolina Ale House.

8 Q. All right. And how long -- what time
9 did you go to Applebee's to eat?

10 A. Eight o'clock.

11 Q. All right. And did you eat dinner
12 there?

13 A. Yes, sir.

14 Q. Did you have anything to drink there?

15 A. No.

16 Q. How did you pay for your dinner?

17 A. My friend works there and she paid for
18 it with her employee discount.

19 Q. What did you have to eat there?

20 A. I had a steak and mashed potatoes.

21 Q. And how long did it take you to eat
22 dinner there that night?

23 A. It took us about 30 minutes. It was
24 already ready when I got there.

25 Q. Okay.

1 A. Yeah.

2 Q. And after that, where did you go?

3 A. We went to Carolina Ale House.

4 Q. All right. How far apart are those
5 places?

6 A. Not even two minutes.

7 Q. All right. And you were driving your
8 own automobile that night?

9 A. No, we --

10 MR. SWEENEY: Object to the form.

11 A. -- started off -- when we went to
12 Applebee's, we left my car there and we went to Ale
13 House.

14 Q. All right.

15 A. And then when we went to Ale House,
16 after we left, she went back to her car and Tripp
17 rode with us, and then we picked up my car and
18 drove to Carolina Wings (sic).

19 Q. I may have asked the question poorly.
20 Did you drive your car at all that evening?

21 A. Yes.

22 Q. Did you drive to Applebee's?

23 A. I did drive to Applebee's.

24 Q. All right. Who drove -- how did you
25 get from Applebee's over to the Carolina Ale House?

1 A. In Mariah's car.

2 Q. All right. And Mariah, that's Mariah
3 Pardee?

4 A. Correct.

5 Q. All right. How do you know her?

6 A. She's one of my very good friends.
7 I've known her for three years.

8 Q. Okay. And did she stay with you, or
9 excuse me. Was she with you the whole time at
10 Applebee's?

11 A. She was with me the whole time at
12 Applebee's.

13 Q. Was she with you the whole time at
14 Carolina Ale House?

15 A. Yes.

16 Q. All right. So, if it took you about
17 30 minutes to eat and shortly after you finished
18 eating you left to go to the Carolina Ale House, is
19 it true you got to Ale House about nine o'clock or
20 9:30?

21 A. Yes.

22 Q. All right. And did you drink alcoholic
23 beverages there?

24 A. Yes.

25 Q. What did you drink there?

1 A. I had two Bud Lights and we had one
2 shot split three ways.

3 Q. Okay. And who was buying shots?

4 A. LB, James Bonner.

5 Q. Okay.

6 A. He bought all the drinks.

7 Q. He bought all the drinks?

8 A. At Ale House. He paid for everything
9 at Ale House.

10 Q. All right. So if my -- if I understood
11 your testimony correctly, you had two Budweisers
12 and a half a shot or a full shot of liquor. Is
13 that correct?

14 A. It was half a shot.

15 MR. REEVES: Object.

16 MR. CAVANAUGH: Object to form.

17 MR. SWEENEY: Object to form.

18 BY MR. HALL:

19 Q. It was a half a shot?

20 A. Yes.

21 Q. What kind of liquor was it?

22 A. I believe it was called a screaming
23 orgasm, but I think that has vodka in it.

24 Q. Okay.

25 A. I'm not 100 percent sure what they put

1 it in.

2 Q. All right.

3 A. It was mixed.

4 Q. What -- do you recall what -- do you
5 know LB?

6 A. I know of him. He's an acquaintance.

7 Q. All right. Are you friends with him on
8 Facebook?

9 A. Huh-uh.

10 Q. You need to say yes or no.

11 A. No, sir.

12 Q. All right. How did you become
13 acquainted with him?

14 A. He was with Tripp.

15 Q. Okay.

16 A. It's one of Tripp's best friends.

17 Q. How long have you known Tripp Graham?

18 A. I've only known him for a month before
19 the wreck.

20 Q. Okay. And where did you and he meet
21 at?

22 A. We had a lot of mutual friends. We met
23 at a friend's house, and then I saw him at Ozzie's
24 before, and that's how we knew each other.

25 Q. All right.

1 A. And we started hanging out.

2 Q. Did you go to a friend's house with him
3 on the night of August the 31st?

4 A. No.

5 Q. All right. So, do you recall giving a
6 statement to the law enforcement officers that
7 night?

8 A. Yes.

9 Q. The highway patrolmen?

10 A. Yes.

11 Q. All right. Did you give more than one
12 statement to them?

13 A. Yes.

14 Q. All right. You were interviewed twice.
15 Is that correct?

16 A. Correct.

17 Q. Once by an officer who took notes.
18 Yes?

19 A. Yes, sir.

20 Q. And another time by an officer that
21 took an audio statement?

22 A. Yes.

23 Q. All right. And did you tell the truth
24 both times?

25 A. I told the truth the second time on the

1 video statement.

2 Q. All right. Did you tell the officer
3 that you had four -- four beers and a shot that
4 night?

5 A. Yes.

6 Q. Did you tell him it was a half a shot?

7 A. No.

8 Q. Was it a full shot or half shot?

9 A. It was a half a shot.

10 Q. All right. And where did you drink
11 that shot at?

12 A. That was at Ale House.

13 Q. All right. So, do you know what your
14 blood alcohol content was the night of the wreck?

15 A. Yes.

16 Q. What was it?

17 A. Point 127.

18 Q. All right. Did you know that that is
19 above the legal limit to drive an automobile?

20 A. Yes, sir.

21 Q. All right. Did you know that the law
22 presumes you to be intoxicated when you drink
23 something over .08?

24 A. Yes.

25 Q. Were you over .08?

1 A. I was over .08.

2 Q. All right. Now, did anybody ever
3 refuse you service at any of the bars that you went
4 to that night?

5 A. No.

6 Q. Did you know any of the bartenders that
7 you were -- that served you that night?

8 A. No.

9 Q. How often did you go to the Ale House?

10 A. Maybe once every six months.

11 Q. All right. Did you go -- how often did
12 you go to the Wild Wing Cafe?

13 A. That was my second time there.

14 Q. All right. How often had you been to
15 the British Bulldog Pub?

16 A. That was probably my fourth time there.

17 Q. All right. But you had been to the Ale
18 House before this night; correct?

19 A. Yes.

20 Q. And you had been to the Wild Wing Cafe
21 before this night, and I'm talking about
22 August 31st?

23 A. Yes.

24 Q. And/or September the 1st, 2015.

25 A. Yes.

1 Q. And is it true that you drank at each
2 place?

3 A. Minus Applebee's. Correct.

4 Q. Correct. No alcohol was consumed at
5 Applebee's?

6 A. None whatsoever.

7 Q. So whenever you got to the Ale House
8 between nine and 9:30, how long was it that y'all
9 stayed -- strike that.

10 How long did you stay there after you
11 arrived?

12 A. We left at 11 o'clock.

13 Q. Okay. Where did you go next?

14 A. That's when we went to Carolina Wings
15 (sic).

16 Q. Okay. Carolina Wings or Wild Wing
17 Cafe?

18 A. Wild Wing Cafe. I get them confused.
19 I'm sorry.

20 Q. Did you go to any place other than
21 Applebee's, the Carolina Ale House, Wild Wing Cafe
22 and the British Bulldog Pub?

23 A. No, sir.

24 Q. All right. Did you have anything to
25 drink that afternoon?

1 A. No.

2 Q. How did you know that Tripp Graham had
3 been drinking all today?

4 A. He told me.

5 Q. What did -- where did he tell you he
6 had been?

7 A. He said him and LB were at a cookout, I
8 believe.

9 Q. All right. Did he tell you where that
10 cookout was?

11 A. No, sir.

12 Q. All right. Did you purchase any of
13 your drinks that night?

14 A. No.

15 Q. Did Tripp -- did Tripp purchase any
16 alcoholic beverages?

17 A. Tripp paid for everything at the
18 wing -- I can't -- Carolina Wings.

19 Q. The Ale House?

20 A. No. The other one.

21 Q. Wild Wing Cafe?

22 A. Wild Wing. Wild Wing.

23 Q. All right.

24 A. He purchased everything at Wild Wing
25 and LB purchased everything at Ale House, and then

1 they split everything at British Bulldog from what
2 they were drinking and then my half a beer.

3 Q. All right. Were you counting your
4 drinks?

5 A. Not necessarily, no.

6 Q. All right.

7 A. I just remember what I had because I
8 had to be at work the next morning.

9 Q. Where was that?

10 A. I was working at Jersey Mike's.

11 Q. All right. What is that?

12 A. A sandwich shop.

13 Q. What time did you have to be TO work,
14 the next day?

15 A. Nine o'clock.

16 Q. Nine o'clock. And what time did you
17 have your first drink?

18 A. I had my first drink roughly about
19 9:15, 9:30.

20 Q. Okay. And would that have been at the
21 Carolina Ale House?

22 A. Correct.

23 Q. All right. And you drank two beers
24 there?

25 A. Yes.

1 Q. All right. And did you also have half ¹⁹
2 a shot there?

3 A. Correct.

4 Q. All right. And what did you tell me it
5 was -- what kind of drink it was?

6 A. The shot?

7 Q. Yes.

8 A. The shot was a screaming orgasm.

9 Q. All right. And you think it may have
10 vodka in it?

11 A. Correct.

12 Q. All right. And LB bought all the
13 drinks at the Ale House?

14 A. Correct.

15 Q. And when I say the Ale House, I'm
16 talking about the Carolina Ale House.

17 A. Carolina Ale House.

18 Q. And we talk about the wings place,
19 we're talking about Wild Wing Cafe.

20 A. Okay.

21 Q. All right. How long -- you said you
22 left the Carolina Ale House at approximately
23 11 o'clock?

24 A. Correct.

25 Q. All right. And where did you go then?

1 A. We went to Wild Wing.

2 Q. All right. And did Tripp Graham buy
3 you alcohol there?

4 A. Correct.

5 Q. Did you count how many drinks you had
6 there?

7 A. I had the two vodka cranberry and Red
8 Bulls.

9 Q. Okay. And what was Tripp drinking that
10 night?

11 A. He had beer. I know he had about eight
12 beers at Ale House and he had -- he was taking
13 shots of Fireball and Grandma with LB. LB was
14 drinking double bourbons.

15 Q. Okay.

16 A. And Coke.

17 Q. All right. Was LB paying in cash?

18 A. I believe he paid in credit.

19 Q. Okay. And where was he at when he was
20 drinking, that is LB drinking the double bourbons
21 and Coke?

22 A. He was at the Wild Wings.

23 Q. At the Wild Wings?

24 A. Correct.

25 Q. On whose tab was He drinking; his own?

1 A. They had it all separated, but then.
2 Tripp ended up paying and picking up his tab and
3 paying for it together.

4 Q. All right.

5 A. I believe the amount was around about
6 \$50.

7 Q. \$50?

8 A. Uh-huh.

9 Q. Where at?

10 A. At Wild Wing.

11 Q. All right. What did you drink at Wild
12 Wings?

13 A. The two vodka cranberry Red Bulls.

14 Q. Did you have any Grand Marnier that
15 night?

16 A. No.

17 Q. Do you recall telling the South
18 Carolina highway patrol officer that interviewed
19 you on videotape that you had Grand Marnier that
20 night?

21 A. I don't recall that.

22 Q. All right. Did you tell him the truth?

23 A. Not in the -- I told him the truth in
24 the video statement.

25 Q. All right. Well, if you -- the

1 video -- the audio statement, if you testified that
2 you had Grand Marnier; is that true?

3 A. I don't believe it's true, no.

4 Q. You don't believe it's true?

5 A. No.

6 Q. All right.

7 A. I tend to not -- I don't.

8 Q. So -- so in any event -- so LB is
9 buying drinks for you where?

10 A. He bought the drinks at the Ale House.

11 Q. At the Ale House, and then Tripp paid
12 for your drinks at Wild Wing Cafe?

13 A. And British Bulldog.

14 Q. And British Bulldog. What did you
15 drink at the British Bulldog?

16 A. Half a beer.

17 Q. Half a beer. How much do you weigh?

18 A. I weigh -- at the time of the accident,
19 I weighed 150.

20 Q. All right. How much do you weigh now?

21 A. One-thirty.

22 Q. All right. So you drank liquor and
23 beer that night?

24 A. Correct.

25 Q. Do you drink liqueur?

1 A. What is that?

2 Q. Well, Grand Marnier, is that a liqueur?

3 A. I consider it a liquor.

4 Q. Okay.

5 A. A dark liquor.

6 Q. All right. And you own a Kia Soul
7 automobile that you drove that evening?

8 A. Correct.

9 Q. All right. Did you crash your vehicle
10 into the rear end of a white Jeep Grand Cherokee on
11 the morning of September 1st, 2015?

12 A. Yes.

13 Q. Tell me what happened.

14 A. We were going down the interstate and
15 Tripp was belligerent and kept on grabbing my face
16 and pulling it from the road. He was trying to
17 kiss me.

18 I told him over and over and over to
19 stop. I'm trying to drive, stop distracting me.
20 He kept on doing it. The last time he did it when
21 he pulled over is he pulled down on my arm, which I
22 drive with my right hand, and he pulled down on my
23 arm which caused me to lose control.

24 Q. All right. Was he intoxicated?

25 A. Very.

1 Q. Did you get into the car with him
2 knowing he was intoxicated?

3 A. Yes. He asked me to take him home.

4 Q. All right. And where was home?

5 A. He lived in ~~Wayne, West~~ ~~Wayne, West~~.

6 Q. All right. Did he only have six to
7 eight beers that night?

8 A. He had way more than that.

9 Q. All right. Did you pay for any of the
10 drinks that you had that night?

11 A. No, sir. I didn't have any money at
12 the time.

13 Q. So you had at least two-and-a-half
14 drinks, if you take -- if you consider a half a
15 shot a half a drink, you had a half a shot at the
16 Ale House of this screaming orgasm, which you think
17 had vodka.

18 A. Right.

19 Q. And two beers. So you had
20 two-and-a-half drinks there.

21 A. Uh-huh.

22 Q. Is that correct?

23 A. Yes.

24 Q. And then you went to Wild Wing. You
25 had two vodka drinks.

1 A. Yes.

2 Q. Is that correct?

3 A. Correct.

4 Q. And then you had -- you left there and
5 you went to the British Bulldog --

6 A. British Bulldog.

7 Q. -- and you said you bought a beer and
8 you said you had a couple of sips there?

9 A. Yes.

10 Q. That would be four-and-a-half drinks?

11 A. Yes, sir.

12 Q. Do you know what time that you left the
13 Wild Wing Cafe?

14 A. We left the Wild Wing Cafe about 12
15 o'clock because they were closing down.

16 Q. All right. And where did you go from
17 there?

18 A. We went to -- walked to the British
19 Bulldog.

20 Q. All right. How far away is the British
21 Bulldog?

22 A. Not even a minute.

23 Q. Not even a minute.

24 A. Walking wise.

25 Q. All right. Do you drink often?

1 A. I did, but, no.
2 Q. Before this wreck, did you drink often?
3 A. I went out on the weekends, yes.
4 Q. All right. How much would you drink?
5 A. Usually about five or six beers and a
6 few shots.
7 Q. All right. So you would drink
8 more -- you would drink to get a buzz; right?
9 A. Yes.
10 Q. And did you drink to get a buzz that
11 night?
12 A. No.
13 Q. All right. Why were you drinking?
14 A. I had a bad day that day, and a lot of
15 stuff happened, and Mariah texted me asking me if I
16 want to go hang out with her and have a few drinks.
17 I said, yeah, but I have to work in the morning, so
18 I wasn't going to get drunk. That wasn't my
19 intention at all.
20 Q. But you had a bad day?
21 A. Uh-huh.
22 Q. Yes?
23 A. Correct.
24 Q. And why -- what was it that caused you
25 to have a bad day?

1 A. Me and my -- one of my very best
2 friends got in a confron -- argument.

3 Q. And so were you going out to drink to
4 sort of release the tension?

5 A. Yes.

6 Q. All right. And when you have a drink,
7 it has an impact on you; doesn't it?

8 MR. SWEENEY: Object to form.

9 MR. REEVES: Object to the form.

10 BY MR. HALL:

11 Q. You can answer.

12 A. It doesn't -- not really.

13 Q. All right. Were you -- go ahead.

14 A. I feel like I had a high tolerance.

15 Q. All right.

16 A. It didn't, you know -- I don't know how
17 to word it. Basically like I didn't feel that I
18 was unable to drive that night at all.

19 Q. Well, alcohol can affect your judgment.
20 Yes?

21 MR. CAVANAUGH: Object to form.

22 MR. SWEENEY: Object to form.

23 MR. CAVANAUGH: Objection.

24 BY MR. HALL:

25 Q. Yes?

1 A. It can but...

2 Q. Let me stop you just a minute here.
3 When these lawyers object, they're doing that for
4 legal reasons. All right? You still have to
5 answer the question. And I think Mr. Waites will
6 agree with me on that.

7 So, in any event, let me back up. You
8 had a bad day and you -- and your friend invited
9 you, Mariah Pardee, to have a few drinks. Yes?

10 A. Yes.

11 Q. You said you were doing that to sort of
12 release the tension; correct?

13 A. Yes.

14 Q. Were you having a drink to sort of take
15 the edge off?

16 A. Correct.

17 Q. All right. And when you drink an
18 alcoholic beverage and you drink more -- if you
19 drink one, it may not have any effect. Is that
20 correct?

21 A. Correct.

22 Q. All right. But if you drink more than
23 one, it may have -- it may have an effect?

24 MR. SWEENEY: Object to the form.

25 MR. CAVANAUGH: Object to the form.

1 MR. REEVES: Object to form.

2 BY MR. HALL:

3 Q. Is that correct?

4 A. Correct.

5 Q. All right. Did you have more than one
6 drink in an hour at the Carolina Ale House?

7 A. No.

8 Q. You got there about 9:30?

9 A. Correct.

10 Q. Right? And you left at about 11?

11 A. Yes.

12 Q. And you said earlier you had had two
13 beers and the half a shot there. Is that correct?

14 A. Correct.

15 Q. So you had two-and-a-half drinks there
16 in less than two hours. Yes?

17 A. Yes.

18 Q. All right. And then you went to the
19 Wild Wing Cafe. Yes?

20 A. Correct.

21 Q. And you got there at about 11?

22 A. Correct.

23 Q. Right? And you stayed there until
24 about 12. Yes?

25 A. Correct.

1 Q. Because they were about to close down.

2 Yes?

3 A. Correct.

4 Q. And so while you were at the Wild Wing
5 Cafe, you had two alcoholic drinks within an hour.

6 Yes?

7 A. Correct.

8 Q. All right. Did you know that -- do you
9 know how much -- how much alcohol can you drink in
10 an hour?

11 MR. SWEENEY: I object to the form.

12 MR. CAVANAUGH: Objection.

13 MR. HALL: ...

14 Q. You can answer.

15 A. What do you mean like?

16 Q. How many drinks are you able to
17 personally to drink within an hour?

18 MR. SWEENEY: Same objection.

19 MR. CAVANAUGH: Same.

20 MR. REEVES: Same.

21 BY MR. HALL:

22 A. Two.

23 Q. Two?

24 A. Limit at two.

25 Q. So you know alcohol can affect your

1 judgment. Yes? 31

2 A. Correct.

3 Q. It can --

4 MR. SWEENEY: Object to form.

5 BY MR. HALL:

6 Q. It can affect your speech. Yes?

7 A. Correct.

8 Q. It can affect your motor skills. Yes?

9 A. Correct.

10 Q. All right. How long tall are you?

11 A. I'm 5'4".

12 Q. All right. I think I may have asked
13 you. Did you know any of the bartenders at any of
14 these places that you went?

15 A. No, sir.

16 Q. All right. What's your date of birth?

17 A.

18 Q. Social security number?

19 A.

20 Q. You have any kind of a criminal record?

21 I'm not talking about your DUI arrest.

22 A. No.

23 Q. All right. Have you ever been arrested
24 before this incident involving this wreck?

25 A. I have, but it's expunged.

1 Q. Okay. What were you arrested for?
2 A. Shoplifting.
3 Q. All right.
4 A. In 2010.
5 Q. Did you not have a friend or hear about
6 a young girl who was killed on the back of a
7 motorcycle not too long before this wreck you were
8 in?
9 A. Uh-huh, yes, sir.
10 Q. Who was that?
11 A. Caitlin Clark.
12 Q. All right. You know that you shouldn't
13 have too much to drink and drive an automobile;
14 don't you?
15 A. Correct.
16 Q. Now, I'm going to show you what's been
17 marked as Plaintiff's Exhibit No. 5 to a previous
18 deposition, and it looks to be a photograph. Do
19 you recognize that photograph?
20 A. Yes.
21 Q. Was that taken at the Ale House?
22 A. That was taken at Ale House.
23 Q. All right. Who is in that photograph?
24 A. That is Mariah, LB, Tripp, and I have
25 no idea who that guy is.

1 Q. All right. Did you --

2 A. That's Winn French, sorry.

3 Q. Winn French?

4 A. Correct.

5 Q. All right. Where does -- where
6 does -- does he live around here?

7 A. I'm not sure. He worked at Applebee's
8 with Mariah.

9 Q. Oh, he did?

10 A. Yes.

11 Q. All right. So did he meet y'all at the
12 Ale House that night also?

13 A. Yes. He was only at Ale House.

14 Q. All right. He's a friend of Mariah's?

15 A. Correct.

16 Q. All right. And is Mariah -- did Mariah
17 only go to the Ale House with you?

18 A. Yes.

19 Q. Okay. She did not go to the Wild Wing
20 Cafe or to the British Bulldog?

21 A. No, sir. She had to be home.

22 Q. But that night you went to sort of be
23 with Mariah. Is that correct?

24 A. That's correct.

25 Q. You didn't go out with Tripp Graham.

1 Is that correct?

2 A. No.

3 Q. You didn't go out with LB?

4 A. No.

5 Q. All right. But you left with Tripp to
6 go to the Wild Wing Cafe. Yes?

7 A. Yes.

8 Q. Why did you go with him?

9 A. He asked me to go with him.

10 Q. All right.

11 A. And hang out with him and LB.

12 Q. All right. Excuse me, I'm sorry.

13 MR. HALL: How are you guys coming on
14 your discovery?

15 MR. SWEENEY: We're close to being able
16 to get them out, but I think I know Tracy was out
17 for a while, but should be getting them to you.

18 MR. HALL: Well, depending what y'all
19 have got in that record, I may need to come back to
20 these folks. And I just -- I've been trying to get
21 it from you. I just don't have it yet, so...

22 Do you know about whether there are
23 receipts to LB or to Graham?

24 MR. SWEENEY: I think that there is some
25 point of sale from that night.

1 MR. HALL: Right.

2 MR. SWEENEY: I don't know what the
3 designation is to it.

4 MR. HALL: Fair enough. Fair enough.

5 BY MR. HALL:

6 Q. Now, were there very many people in the
7 Ale House when y'all went on Monday night?

8 A. Yes. The bar was full all the way
9 around.

10 Q. All right. And how about when you went
11 to the Wild Wing Cafe, were there very many people
12 there?

13 A. There were about five to ten people.

14 Q. All right. So it wasn't nearly as
15 crowded at that point. Is that correct?

16 A. Yes.

17 Q. And did the bartenders seem to know LB?

18 A. No.

19 Q. All right.

20 A. Not to my knowledge.

21 Q. Did you converse any with the
22 bartenders that night?

23 A. No.

24 Q. Your conversation was -- well, let me
25 ask it this way: Did you basically kind of stay

1 with LB, Tripp and Mariah at the Ale House?

2 A. Yes.

3 Q. And did you and Tripp and LB sort of
4 stay together whenever you went to the Wild Wing
5 Cafe?

6 A. Correct.

7 Q. Y'all sat close to each other?

8 A. Yes.

9 Q. All right. Did you notice whether LB
10 was buying shots for everybody around him?

11 A. Yes. Especially at Ale House. He paid
12 pretty much for the whole bar of people that he
13 didn't know. He was just talking to everybody and
14 he paid for rounds for everybody.

15 Q. All right. How many people? Do you
16 know?

17 A. There was probably ten total.

18 Q. All right. How many people -- but
19 there weren't that many people at the Wild Wing
20 Cafe. Is that correct?

21 A. Yeah. Wild Wing, no.

22 Q. All right. Was he buying shots for
23 y'all that night?

24 A. No. No me. For Tripp and -- because
25 Tripp did Fireball. He did Grandma and then he had

1 a girl with him. I don't know her name.

2 Q. Okay.

3 A. She happened to be at Ale House and
4 followed us there.

5 Q. All right.

6 A. But I didn't talk to her.

7 Q. And LB was buying her alcohol to drink?

8 A. Yes.

9 Q. Were you injured in this collision?

10 A. Yes.

11 Q. What kind of injuries did you sustain?

12 A. I had a concussion, went in and out of
13 consciousness on the scene, and I had to get 30
14 stitches in my shoulder.

15 Q. All right. Did you strike your head on
16 the windshield?

17 A. Yes.

18 Q. Is there any evidence of that that
19 you're aware of?

20 A. Might be in the hospital records, I
21 believe. They did X-rays.

22 Q. All right. Were you released that
23 night?

24 A. I was released at 11 o'clock in the
25 morning.

1 Q. All right. What time did you get to
2 the hospital?

3 A. I got to the hospital at 3:05.

4 Q. 3:05?

5 A. Yes.

6 Q. Did you go in an ambulance?

7 A. Correct.

8 Q. Was your blood drawn there.

9 A. Yes.

10 Q. Who drew your blood?

11 A. I guess it was one of the nurses.

12 Q. All right. Did you go to any place
13 else to have blood drawn?

14 A. No.

15 Q. All right. How many vials of blood
16 were drawn that night?

17 A. There was two, but I never received my
18 copy.

19 Q. All right. Do you know why?

20 A. The officer dropped it.

21 Q. Okay. Did you see him drop it?

22 A. He dropped it at her feet, my mother's
23 feet.

24 Q. Did it break?

25 A. Yes, it broke.

1 Q. Had you ever met Bonner -- I think you
2 said you had met Bonner at Ozzie's?

3 A. Yes. He was a bouncer at Ozzie's.

4 Q. Had he ever bought you alcohol before?

5 A. I think one time, but other than that,
6 no.

7 Q. So James Bonner and LB are one in the
8 same person; right?

9 A. Yes.

10 Q. How much did Mariah have to drink that
11 night?

12 A. She only had two beers and the shot
13 three ways.

14 Q. Do you know your limit on how many
15 alcoholic drinks you can have in one evening before
16 you become intoxicated?

17 A. No.

18 Q. Have you ever become intoxicated?

19 A. Yes.

20 Q. Did you have a buzz?

21 A. I had probably a buzz of one, two,
22 maybe.

23 Q. All right. You had a buzz at maybe a
24 one or two?

25 A. Yes.

1 Q. In the evening?

2 A. Yes.

3 Q. This wreck happened at two in the
4 eve -- two o'clock in the morning; right?

5 A. Yes. Two o'clock in the morning.

6 Q. Did you have a buzz then?

7 A. No.

8 Q. When did you get a buzz?

9 A. It was probably like 11:30. I started
10 drinking water at British Bulldog. I stayed there
11 for two hours.

12 Q. You drink alcohol to get a buzz; don't
13 you?

14 MR. SWEENEY: Object to the form.

15 BY MR. HALL: All right, thank you.

16 Q. Go ahead.

17 A. I guess.

18 Q. You drink it to make you feel good?

19 Yes?

20 A. Yes.

21 Q. So you say that Mr. Graham was very
22 intoxicated?

23 A. Correct.

24 Q. All right. And notwithstanding that,
25 you agreed to take him home?

1 A. Yes. I didn't -- because he had no
2 other way. He was going to drive.

3 Q. All right. And you had been drinking
4 too?

5 A. Correct.

6 Q. But you decided that evening to get
7 into a car with someone that was grossly
8 intoxicated; correct?

9 A. Correct.

10 Q. Did you think it was safe to get into a
11 car with Tripp Graham after he had had too much to
12 drink?

13 A. I didn't think about it.

14 Q. Did you think about your own sobriety
15 before you got into the car?

16 A. Yes.

17 Q. What did you think?

18 A. I knew if I needed a ride or didn't
19 think I could drive, I could call my mom or
20 grandpa.

21 Q. All right. Tell me how the crash
22 occurred.

23 A. Basically, like I said earlier, I was
24 going down the interstate. We were doing about 70,
25 and we were going to get off Exhibit 111 and Tripp

1 kept on pulling my face so I missed the exit after
2 I kept on telling him to stop.

3 Then we were coming up on the, I guess
4 it was Cherokee, the Jeep, and he pulled my face
5 again, dropped my hand on the steering wheel, and I
6 lost control.

7 Q. Do you know what the legal limit of
8 intoxication is?

9 A. .08.

10 MR. SWEENEY: Object to form.

11 BY MR. HALL: All right.

12 Q. Were you arrested for driving under the
13 influence?

14 A. Correct.

15 Q. And you gave voluntary statements to
16 law enforcement officers?

17 A. Correct.

18 Q. Did you ever tell the officers that you
19 were dizzy?

20 A. No.

21 Q. Did you ever tell them, I can't give a
22 statement now because I hurt my head?

23 A. No. I thought I had to.

24 Q. All right. Did you understand what the
25 officers were saying whenever they asked you

1 questions?

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2 A. I was a little bit confused.

3 Q. All right. Did you answer their
4 questions?

5 A. Yes.

6 Q. All right. Did they force you to
7 answer their questions?

8 A. They didn't force me, but I thought I
9 was -- I was under the consent that anytime law
10 enforcement comes up to you, you have to answer the
11 questions.

12 Q. Did they tell you that you didn't have
13 to answer the questions?

14 A. No.

15 Q. All right.

16 A. Not until the hospital at the video
17 statements.

18 Q. All right. When they took your
19 statements there, they gave you your rights?

20 A. Yes.

21 Q. And you gave them a statement?

22 A. Voluntary statement; correct.

23 Q. Did that include how much you had had
24 to drink that night?

25 A. Yes.

1 Q. Did you tell them the truth?

2 A. Yes.

3 Q. Do you agree that you were served too
4 much alcohol?

5 MR. CAVANAUGH: Object to form.

6 MR. SWEENEY: Object to form.

7 THE WITNESS: No.

8 BY MR. HALL: [unclear]

9 Q. You can answer that question.

10 Your position is that you were fine to
11 drive. Is that correct?

12 A. Correct. I felt fine.

13 Q. And that you were not under the
14 influence of alcohol?

15 A. Can you word that a little bit
16 differently?

17 Q. I can. Was it your opinion that you
18 were not under the influence of alcohol?

19 A. I didn't feel like it impaired me.

20 Q. All right. Were you under the
21 influence?

22 A. I was drinking, yes.

23 (Note: Mr. Powell arrived.)

24 Q. Did you lose control of your automobile
25 that night?

1 A. Yes.

2 Q. Did any bartender ever refuse to serve
3 you more drinks?

4 A. No.

5 Q. Let's take a break.

6 VIDEOGRAPHER: Going off the record.

7 The time is 3:03 p.m.

8 (Note: Caitlin Heyward left.)

9 (A recess transpired.)

10 VIDEOGRAPHER: We're back on the
11 record. The time is 3:16 p.m.

12 BY MR. HALL:

13 Q. Okay. Ms. Mills, just trying to go
14 back and make sure I understand that progression of
15 events. You left Applebee's at about sometime
16 around nine o'clock. Is that correct?

17 A. Correct.

18 Q. And you arrived at the Carolina Ale
19 House. Is that true?

20 A. Correct.

21 Q. And at the Ale House, LB was buying
22 everybody drinks.

23 A. Correct.

24 Q. All right. And he bought rounds of
25 drinks for people around the bar.

- 1 A. Correct.
- 2 Q. Including you.
- 3 A. Correct.
- 4 Q. And you drank beer -- two beers there.
- 5 A. Correct.
- 6 Q. And a half a shot.
- 7 A. Correct.
- 8 Q. And you left there and you went to the
- 9 Wild Wing Cafe --
- 10 A. Correct.
- 11 Q. -- at about 11 o'clock.
- 12 A. Correct.
- 13 Q. And Tripp Graham was buying you
- 14 alcoholic drinks there.
- 15 A. Correct.
- 16 Q. Including vodka, Red Bull and
- 17 cranberry.
- 18 A. Correct.
- 19 Q. Is that correct?
- 20 A. Correct.
- 21 Q. And you had two drinks there. Is that
- 22 correct?
- 23 A. Uh-huh, yes.
- 24 Q. And you left from there sometime
- 25 shortly after midnight because they were closing.

1 down. Yes?

2 A. Yes.

3 Q. And you went to the British Bulldog Pub
4 where you said you had part of a beer there.

5 A. Yes.

6 Q. All right.

7 A. The other got spilled on me.

8 Q. Who spilled it on you?

9 A. Tripp.

10 Q. Okay. But at the Bulldog Pub, that's
11 where Tripp Graham was buying you drinks or was
12 that LB?

13 A. It was just the one drink, but yes.

14 Q. All right.

15 A. Tripp bought that.

16 Q. All right. He bought that one. And as
17 between yourself and Tripp Graham, Tripp was
18 drinking beer and liquor?

19 A. Yes.

20 Q. And you drank beer and liquor?

21 A. Yes.

22 Q. And you're giving us your testimony
23 about what you had to drink that night based on
24 your memory here today?

25 A. Yes.

1 Q. You don't have any receipts that prove
2 that?

3 A. No. I didn't pay for anything.

4 Q. All right. But LB wasn't drinking all
5 the alcohol that he bought by himself; was he?

6 A. No.

7 Q. And Tripp wasn't drinking all the
8 alcohol he bought by himself; was he?

9 A. No.

10 Q. Was Tripp buying any drinks for anybody
11 other than himself and you?

12 A. LB and the girl that was with him.

13 Q. All right. So they would buy rounds of
14 drinks. Is that how it would work?

15 A. Pretty much, yeah.

16 Q. Did you count the rounds?

17 A. No.

18 Q. All right. But you were drinking with
19 them?

20 A. Yes.

21 Q. At every place you went?

22 A. Yes.

23 Q. Except Applebee's?

24 A. Yes.

25 Q. And at some point you had a buzz around

1 11:30?

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2 A. Yes.

3 Q. And you were drinking alcohol that
4 night to take the edge off?

5 A. Yes.

6 Q. But you didn't count your drinks?

7 MR. SWEENEY: I object to the form.

8 MR. REEVES: Same objection.

9 THE WITNESS: I didn't count them but I
10 know how much I had.

11 BY MR. HALL:

12 Q. Either you counted them or not. You
13 didn't count the drinks.

14 A. Yes, I counted them.

15 MR. CAVANAUGH: Objection.

16 MR. SWEENEY: Objection.

17 BY MR. HALL:

18 Q. Let me finish my question, please. Did
19 you count your drinks or not?

20 A. Yes.

21 Q. All right. Where can we look to find
22 out how many drinks you had that night?

23 A. I guess on the video cameras.

24 Q. All right. Other than that, do you
25 have any evidence of how much you had to drink that

1 night?

2 MR. SWEENEY: Object to the form.

3 BY MR. HALL:

4 A. No.

5 Q. All right. Is this the car that is
6 shown in Plaintiff's Exhibit No. 6 that you were
7 driving on the night of the wreck?

8 A. Yes.

9 MR. REEVES: That one needs to be
10 remarked.

11 MR. CAVANAUGH: That's not Exhibit 6.

12 MR. HALL: Let's remark that then.

13 MR. CAVANAUGH: I think that will be

14 11. Or y'all can just mark on there.

15 (PLF. EXH. 11, Picture, was marked for
16 identification.)

17 BY MR. HALL:

18 Q. Is that the car you drove that night?

19 A. Yes.

20 Q. Kia Soul?

21 A. Yes.

22 Q. You had only had it about a month. Is
23 that right?

24 A. Two months.

25 Q. All right. Two months. How were you

1 paying for that?

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2 A. I was -- I had it financed.

3 Q. All right.

4 A. Through the car dealership.

5 Q. Was it in your name?

6 A. In my name.

7 Q. Okay. That's all I have right now. I
8 may have some follow-up depending on what these
9 gentlemen ask you.

10 EXAMINATION

11 BY MR. REEVES:

12 Q. Ms. Mills, my name is Phil Reeves. I
13 represent Green Apple, LLC which owns the
14 Applebee's. I have very few questions.

15 It's my understanding, based on what
16 you told Mr. Hall, that you had not had anything to
17 drink that day before you got to Carolina Ale
18 House. Is that right?

19 A. Correct.

20 Q. Okay. I think you said something
21 during your testimony that said you left your car
22 at Applebee's and Mariah actually drove when y'all
23 left there?

24 A. Yes.

25 Q. And when you went back to get your car,

1 did go into the Applebee's at all?

2 A. No.

3 Q. So the last time you were there was
4 when you had the supper without any alcohol and
5 then you left?

6 A. Yes. Correct.

7 Q. That's all I've got. Thank you.

8 EXAMINATION

9 BY MR. CAVANAUGH:

10 Q. Ms. Mills, my name is Eric Cavanaugh.
11 I represent Columbiana Wings, LLC. How you doing
12 today? You're okay? You're holding up, good. Do
13 you have a Facebook page?

14 A. I do.

15 Q. How would I go about finding it?

16 A. It's Destiny Heather Mills.

17 Q. So if I type in Destiny Heather Mills
18 it will come up?

19 A. Yes.

20 Q. All right. Do you have any other
21 social media accounts?

22 A. Twitter.

23 Q. Twitter. And what's your handle?

24 A. I believe it's XOXO under score dess,

25 D-E-S-S, 92.

1 Q. Do you have an Instagram?

2 A. Yes.

3 Q. What's that?

4 A. Destiny Heather 92. I believe.

5 Q. And any other social media?

6 A. No.

7 Q. How long has your Facebook page been
8 active?

9 A. Six years.

10 Q. When was the last time you posted to
11 it?

12 A. September 1st.

13 Q. What about your Twitter page?

14 A. I've never posted on that one.

15 Q. You just have it to monitor?

16 A. Yeah. I just follow different people
17 and look through it.

18 Q. What about your Instagram?

19 A. That last post was, I think, two days
20 ago, a picture of my nephew.

21 Q. Did you post on any of these -- let me
22 ask you this: Your Facebook page, did you remove
23 it from social media from the Internet after the
24 incident?

25 A. Yes. It's been deleted.

1 Q. It's been deleted?

2 A. Yes.

3 Q. Did you save anything from your prior
4 posts?

5 A. No.

6 Q. Okay. So you no longer today have a
7 Facebook page?

8 A. No.

9 Q. Okay. And then your Twitter page, has
10 it been active the entire time?

11 A. The Twitter has been active the whole
12 time. Still active.

13 Q. But you've never posted on it?

14 A. Uh-huh.

15 Q. Then your Instagram -- and the last
16 post was two days ago?

17 A. Yes.

18 Q. It's still active?

19 A. Correct.

20 Q. Do you have cats?

21 A. I had cats. I don't have any where I
22 live now.

23 Q. Okay. You told me the last time -- you
24 just mentioned that you do not have a Facebook
25 page. Let me show you what appears to be your

1 Facebook page. I want you to take a look at that
2 on MY iPad and tell me if that's your Facebook
3 page.

4 A. That is, but it's supposed to be
5 deactivated.

6 Q. Okay. Well, if that's your Facebook
7 page, and it also shows two cats and it was updated
8 three hours ago. Did you update your Facebook page
9 three hours ago?

10 A. My best friend has the password, so I
11 don't recall.

12 Q. So you tell me, you know you have a
13 Facebook page. Your best friend -- you haven't
14 posted on it and your best friend has your
15 password?

16 A. Yes.

17 Q. Is she doing all these posts through
18 the month of April? Because there are some
19 pictures of you that look like they're selfies.

20 A. Those were old ones.

21 Q. Who uploaded this picture on April 1st
22 at 12:40, a.m. of you?

23 A. I did that one.

24 Q. So you posted on this Facebook page on
25 April 1st at 12:40 a.m.?

1 A. Correct.

2 Q. So what you told me a minute ago about
3 your Facebook page -- you not having posted on this
4 Facebook page since you took your Facebook page
5 down on September 1st is not correct. Is it?

6 A. That is not -- that's a new one. The
7 other one was taken down September 1st.

8 Q. I understand. But I asked you if you
9 had a Facebook page after you took down this
10 Facebook page and you told me no. I just showed
11 you what your Facebook account is and you
12 acknowledged that it was. Now this is your
13 Facebook page; correct?

14 A. Yes.

15 Q. And it's not under Destiny Heather
16 Mills; is it?

17 A. It's Destiny Heather.

18 Q. Right. And you have posted on it,
19 seems like at least since March 17th; correct?

20 A. Correct.

21 Q. Did you put this account up sometime in
22 March?

23 A. Yes. That one was made in March.

24 Q. Okay. Have you deleted anything off of
25 this Facebook page?

1 A. Not to my knowledge. It's just those,
2 what's put on there.

3 Q. All right. I'm going to ask you not to
4 remove any other social media from the Internet.

5 A. Okay.

6 Q. From here on forward, okay? Including
7 your Twitter page and your Instagram page.

8 Ms. Mills, were you arrested as a
9 result of this accident that occurred on
10 September 1, 2015?

11 A. Correct.

12 Q. Okay. And what was -- were you charged
13 with -- what were you charged with?

14 A. Felony DUI.

15 Q. Did you spend anytime in jail?

16 A. Six months.

17 Q. When were you released?

18 THE WITNESS: Do you remember the date?

19 Q. You can't look at anybody.

20 A. I'm sorry.

21 Q. I'm sorry.

22 A. No.

23 Q. Mr. Hall might not have told you, but
24 unfortunately during a deposition, you can't look
25 to somebody else for an answer. Sometimes you have

1 to guess. If you don't know, you can approximate.

2 A. I'm sorry.

3 Q. That's okay. Not everybody is used to
4 this like we are.

5 A. I believe it was March 9th or 10th, I
6 want to say...

7 Q. March 9th or 10th? Where are you
8 living today?

9 A. With my mother.

10 Q. And is that the address ...?

11 A. Correct.

12 Q. What's the status of your charges,
13 Ms. Mills?

14 A. They're pending.

15 Q. Have you reached any type of plea deal
16 with the prosecutor?

17 A. Not to my knowledge.

18 Q. Do you have a court date yet?

19 A. No, sir.

20 Q. Okay. Now, I just want to confirm what
21 you were saying earlier. You only had two drinks
22 at the Wild Wing Cafe; correct?

23 A. Wild Wing, correct.

24 Q. So you had a -- when you say

25 vodka -- excuse me, vodka, Red Bull, cranberry,

1 that's a type of drink; correct?

2 A. Yes.

3 Q. Is there a reference? Do you call that
4 something?

5 A. No, sir.

6 Q. Just vodka, cranberry, Red Bull?

7 A. Just a combination that I like.

8 Q. Okay. So you had two of those at Wild
9 Wing?

10 A. Correct.

11 Q. Did you have any shots at Wild Wing?

12 A. No.

13 Q. Were you offered any shots at Wild
14 Wing?

15 A. I was.

16 Q. And did you turn those down?

17 A. Yes.

18 Q. Who offered you the shots?

19 A. LB and Tripp.

20 Q. And you turned them down both times?

21 A. Yes.

22 Q. Why did you turn them down?

23 A. Because I don't like straight shots of
24 anything.

25 Q. What kind of shots were they?

1 A. Fireball.

2 Q. Do you know if you finished both of
3 those drinks, drank all of the alcohol in them?

4 A. Tripp had some of it.

5 Q. Okay. So of the two drinks you had at
6 Wild.Wing, Tripp had some of your drinks?

7 A. Yes.

8 Q. So it is fair to state that you didn't
9 consume all of the two drinks that you were in
10 possession of while at Wild Wings?

11 A. Yes.

12 MR. HALL: Objection to the form of the
13 question as leading.

14 MR. CAVANAUGH: Rick, this is a
15 deposition where you can object to the form.

16 MR. HALL: I understand.

17 MR. CAVANAUGH: And that's what our
18 rules allow.

19 MR. HALL: I think you don't have a
20 good understanding, but we'll let that stand.

21 MR. CAVANAUGH: Okay.

22 MR. HALL: I think I can object on the
23 basis.

24 MR. CAVANAUGH: All right. Thank you.

25 MR. HALL: And, in fact, I know that I

1 can. 61

2 MR. CAVANAUGH: That's fine.

3 BY MR. CAVANAUGH:

4 Q. Ms. Mills, were you -- pardon me one
5 second. All right.

6 When you were at Carolina Ale House,
7 was your speech slurred?

8 A. No.

9 MR. HALL: Objection. Leading.

10 BY MR. CAVANAUGH:

11 Q. Okay. Were your motor skills affected
12 in any way?

13 MR. HALL: Objection. Leading.

14 BY MR. CAVANAUGH:

15 A. No.

16 Q. Do you believe your judgment was
17 affected in any way?

18 MR. HALL: Objection leading.

19 BY MR. CAVANAUGH:

20 A. No.

21 Q. All right. Same questions go for Wild
22 Wing Cafe. Was your speech slurred?

23 A. No.

24 MR. HALL: Objection leading.

25 BY MR. CAVANAUGH:

1 Q. Was your judgment affected in any way?

2 MR. HALL: Same objection.

3 BY MR. CAVANAUGH:

4 A. No.

5 Q. Were your motor skills affected in any
6 way?

7 A. No.

8 MR. HALL: Same objection.

9 BY MR. CAVANAUGH:

10 Q. All right. Same questions for British
11 Bulldog Pub. Was your speech slurred at British
12 Bulldog Pub?

13 A. No, sir.

14 MR. HALL: Objection. Leading.

15 BY MR. CAVANAUGH:

16 Q. Was your judgment affected in any way?

17 MR. HALL: Same objection.

18 A. No.

19 BY MR. CAVANAUGH:

20 Q. Were your motor skills affected in any
21 way?

22 MR. HALL: Same objection.

23 BY MR. CAVANAUGH:

24 A. No.

25 Q. Do you believe you were visibly

1 intoxicated at British Bulldog Pub? 63

2 MR. HALL: Same objection.

3 BY MR. CAVANAUGH:

4 A. No.

5 Q. Do you believe you were visibly
6 intoxicated at Wild Wing Cafe?

7 MR. HALL: Same objection.

8 BY MR. CAVANAUGH:

9 A. No.

10 Q. Do you believe you were physically
11 intoxicated at Carolina Ale House?

12 MR. HALL: Same objection.

13 BY MR. CAVANAUGH:

14 A. No.

15 Q. Ms. Mills, did you -- do you carry a
16 credit or did you carry a credit or debit card at
17 the time of the incident?

18 A. No, sir.

19 Q. Okay. Short circuited about four or
20 five different questions.

21 At Carolina Ale House, you indicate you
22 had two Bud Lights. Is that correct?

23 A. Correct.

24 Q. And one shot split three ways. Is that
25 correct?

1 A. One three ways.

2 Q. So just because I'm old and don't take
3 shots, let me just understand. One shot split
4 three ways, is that half a shot or is that a third
5 of a shot?

6 A. That would you be a third.

7 Q. Actually, instead of half a shot at
8 Carolina Ale House, you had a third of a shot?

9 A. Yes.

10 Q. Did you finish that shot?

11 A. Yes.

12 Q. Did you finish your two beers at
13 Carolina Ale House?

14 A. Yes.

15 Q. Previously you testified -- well, let
16 me ask you this: How long prior to this incident
17 did you know, and you may have answered this
18 already, but my notes are confusing.

19 How long prior to this incident had you
20 known Tripp Graham?

21 A. A month. This was my second time
22 hanging out with him.

23 Q. And the first time you met him at a
24 friend's house; correct.

25 A. I met him at his friend's house.

1 Q. Your friend or his friend?

2 A. His friend.

3 Q. What friend did you meet Tripp at?

4 A. I don't remember. I don't recall his
5 name.

6 Q. Okay. And the second time you saw him
7 was at Ozzie's?

8 A. Ozzie's, correct.

9 Q. How many days before this incident did
10 that meeting take place?

11 A. I was with him the night before. I was
12 with him Ozzie's.

13 Q. At Ozzie's on Sunday night?

14 A. Sunday they had a benefit, yes, sir.

15 Q. Okay. Ms. Pardee, she was not -- was
16 she with you at the Wild Wing Cafe?

17 A. No.

18 Q. When you were at the Wild Wing Cafe, do
19 you recall whether there were any football games on
20 the TVs that evening?

21 A. No. I didn't watch TV. I was sitting
22 at a bar talking to Tripp.

23 Q. So you were sitting at the bar talking
24 to Tripp. Tell me, if you recall, was Tripp
25 sitting to your right -- to your right or to your

1 left?

2 A. He was sitting to my right.

3 Q. Where was LB?

4 A. To my left.

5 Q. So you were between them?

6 A. I was between the two.

7 Q. Were there other people --

8 A. There was the girl that LB had with him

9 that he met at the other bar. I don't know her

10 name.

11 Q. Okay. Can you describe her for me?

12 A. She was a bigger girl, dark brown hair.

13 I believe she had dark eyes.

14 Q. Did she also go with you and LB and

15 Tripp to the British Bulldog?

16 A. Yes.

17 Q. And you don't recall her name?

18 A. No, sir.

19 Q. Did you say LB had met her at Carolina

20 Ale House?

21 A. Yeah. They met at Ale House.

22 Q. So do you know if he knew her before

23 then?

24 A. I believe they were friends, but I

25 didn't know her personally and I didn't talk to

1 her.

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2 Q. Okay.

3 A. The way they acted they were friends
4 and had talked before.

5 Q. All right. Did you count Mr. Graham's
6 drinks that evening?

7 A. I saw him have well over ten beers at
8 least.

9 Q. Between where and where?

10 A. From Ale House. I know he was drinking
11 wherever they went to eat. I believe it was Texas
12 Roadhouse. I know he was drinking there. I know
13 he had at least five or six because he kept on
14 making comments to me saying, Are you going to
15 baby-sit that beer? And he had five or six there.
16 I know he had -- he had some vodkas at Ale -- not
17 Ale House, the wing, Wild Wing Cafe. He had vodka
18 there.

19 I know LB had double bourbons and Coke.
20 And then he went back to beer at British Bulldog.
21 He had about three, four there.

22 Q. Okay. Do you recall whether LB took
23 any shots at the Wild Wing Cafe himself?

24 A. Wild Wings, yeah, he was taking
25 Grandma.

1 Q. Okay. Did he take a Fireball also, LB?

2 A. Tripp was the one taking Fireballs.

3 Q. Okay. Now, just to be sure, you were
4 the driver at the time the incident occurred;
5 correct?

6 A. Correct.

7 Q. Mr. Graham was not the driver?

8 A. He was not driving.

9 Q. What Jersey Mike's did you used to work
10 at?

11 A. Lexington.

12 Q. How long did you work at Jersey Mike's?

13 A. I've been on and off with them for
14 about three years.

15 Q. Are you on or off with them right now?

16 A. I'm off. I'm working at Harbor Inn.

17 Q. Is that right here, in Lexington?

18 A. Yes, sir.

19 Q. How long have you been at Harbor Inn?

20 A. About a month now.

21 Q. I don't believe Mr. Hall asked you for
22 your cell phone number. Did you have a cell phone
23 at the time?

24 A. Of the incident?

25 Q. Yes, ma'am.

1 A. It was off, but the phone number was

2 -----

3 Q. And who was your carrier?

4 A. StraightTalk.

5 Q. Was it one of these pay by the minutes?

6 A. Unlimited, 45 a month.

7 Q. Whose name was it in?

8 A. Destiny Mills, mine.

9 Q. Destiny Mills what?

10 A. My name, Destiny Mills.

11 Q. Okay. It was in your name. I'm sorry.

12 A. Yes.

13 Q. You said it's off. Is it off now?

14 A. That number is no longer --

15 Q. It was working at the time of the

16 incident?

17 A. No, no, no, no, no, no. It was off at
18 the time of the incident. The cell phone service
19 was off completely.

20 Q. Okay.

21 A. It was supposed to get paid that
22 following Friday.

23 Q. They had turned it off?

24 A. Yes.

25 Q. No one had gone to turn it back on at

1 the time of the incident?

2 A. No.

3 Q. I understand. Okay.

4 Well, I'm having a little bit of a
5 problem here. If your cell phone was off at the
6 time of the incident, how did Mariah text you and
7 get you to go out and have drinks that evening?

8 A. Wi-Fi.

9 Q. She texted you over Wi-Fi?

10 A. Yeah. The iPhone, the I-messages.

11 Q. Do you still have that phone?

12 A. Yes.

13 Q. Have you deleted any information off of
14 it?

15 A. It was completely rebooted, yeah.

16 Q. When was it completely rebooted?

17 A. I believe my sister did it while I was
18 in jail.

19 Q. So your sister -- what's your sister's
20 name?

21 A. Emily Eddings.

22 Q. Where does Emily live?

23 A. Platt Springs Road. That's all I know.

24 I don't know her numerical --

25 Q. Is she older or younger?

1 A. Younger.

2 Q. Spell her last name.

3 A. Eddings, E-D-D-I-N-G-S.

4 Q. And she erased your iPhone or rebooted
5 your iPhone while you were in jail?

6 A. Yeah. It was factory reset.

7 Q. Do you know why she did that?

8 A. No. I know I probably told her to, I
9 believe, the first week.

10 Q. Why did you tell her to do a factory
11 reset on your iPhone?

12 A. I just -- I mean, I was scared. I
13 never been through anything like this before.

14 Q. All right. You testified that the
15 reason that you went out that evening is because
16 you had had a bad day and that one of your best
17 friends went out and got in an argument?

18 A. No. Me and her got in an argument, one
19 of my best friends.

20 Q. Who is that?

21 A. Samantha Norton.

22 Q. N-O-R-T-O-N?

23 A. Correct.

24 Q. Are you and Ms. Norton still friends
25 today?

1 A. Yes.

2 Q. When was the last time you talked to
3 her?

4 A. Today.

5 Q. Who does she work for?

6 A. Kia -- I know it's Kia. JT's Kia.

7 Q. Galeana Chrysler Jeep?

8 A. Yes.

9 Q. Has Ms. Norton ever told you that you
10 had a serious drinking problem?

11 A. Yes.

12 Q. Did you used to regularly go to bars
13 during the week?

14 A. I did.

15 Q. Does Ms. Norton know Winn French?

16 A. No. Not to my knowledge.

17 Q. Did you go to the Mile High Club on the
18 night of the incident?

19 A. Not at all.

20 Q. Where is the Mile High Club?

21 A. That is, I believe, right across
22 from -- right beside the airport. Is that
23 Charleston Highway, I believe? Charleston Highway,
24 321.

25 Q. Previously you testified this was only

1 your second time to Wild Wing Cafe. Is that
2 correct?

3 A. Yes, correct.

4 Q. When was the time that you had been
5 there prior to that?

6 A. It's been years. About a year and a
7 half when I worked at Copper River.

8 Q. Okay. So the only times you've been to
9 Wild Wing Cafe are the night of the incident and a
10 year to a year and a half before that?

11 A. Yes.

12 Q. Now, you gave two statements to
13 authorities on the night of the incident. Is that
14 correct?

15 A. Correct.

16 Q. And the first time was not recorded.
17 Is that correct?

18 A. Correct.

19 Q. And they did not read you your rights
20 at that time. Is that correct?

21 A. No.

22 Q. It's correct they did not read you your
23 rights?

24 A. Yes, correct.

25 Q. And they -- you were transported to the

1 hospital from the accident scene; correct?

2 A. Correct.

3 Q. And the police showed up there?

4 A. Yes.

5 Q. Did they ask you to give your statement
6 then?

7 A. Yes.

8 Q. Did they ask you to give a statement
9 then?

10 A. They told me what happened and asked if
11 I wanted to give a voluntary statement, and I said
12 yes.

13 Q. What did they tell you happened?

14 A. Someone passed away. That was at
15 4:30 in the morning.

16 Q. And did they read you your rights?

17 A. Yes.

18 Q. And did you choose to go forward at
19 that point after your rights were read to you?

20 A. I did.

21 (Note: Ms. Heyward returns.)

22 Q. And now the statement you gave earlier
23 in the evening before your rights were read, did
24 you tell them some incorrect information?

25 A. I did.



1 Q. But the statement that you gave later
2 in the -- excuse me, in the morning after your
3 rights were read, that's correct; right?

4 MR. HALL: Objection to the form.

5 BY MR. CAVANAUGH:

6 A. That's correct.

7 Q. And you believe that your -- do you
8 believe that the statement you gave to the police
9 that morning, which was recorded, is consistent
10 with your testimony today?

11 A. Correct.

12 Q. Does Mr. French live in Columbia?

13 A. I don't know where he lives. I'm
14 assuming so.

15 Q. When was the last --

16 A. He works at Applebee's.

17 Q. When was the last time you talked to
18 him?

19 A. The night of the wreck.

20 Q. When was the last time you talked to
21 Mr. Graham?

22 A. The night of wreck.

23 Q. What about Mr. Bonner?

24 A. Same thing, night of the wreck. I
25 haven't talked to him since.

1 Q. And Ms. Pardee?
2 A. Talked to her earlier today.
3 Q. Have you spoken to Mr. Hall before
4 today?
5 A. No.
6 Q. Why did Ms. Pardee go with you to
7 Carolina Ale House -- excuse me, to Wild Wing Cafe?
8 A. She didn't go.
9 Q. Why did she not? Do you know?
10 A. She had to be home.
11 Q. Okay. I think that's all the questions
12 I have for you, Ms. Mills. Thank you. I think
13 there are two more lawyers that might have some
14 questions for you.
15 EXAMINATION.
16 BY MR. SWEENEY:
17 Q. Ms. Mills, my name is Billy Sweeney. I
18 represent Carolina Ale House in this matter.
19 Is it my understanding that Ms. Pardee
20 drove you to and from the Carolina Ale House?
21 A. Correct.
22 Q. When y'all left the Carolina Ale House,
23 Mr. Graham was with you all. Is that right?
24 A. Yes. When we left Ale House, he was
25 with us.

1 Q. How was Mr. Graham acting at that time?

2 A. He was being loud and obnoxious. He
3 hopped in the car with us. We didn't tell him he
4 could ride. He just hopped right in, and then he
5 got in my car and we went to Wild Wings.

6 Q. But he had invited you to go to Wild
7 Wings with him?

8 A. And LB, yeah.

9 Q. So when you say loud and obnoxious,
10 nonetheless, you made the decision to accompany him
11 to Wild Wings. Is that right?

12 A. Yes.

13 Q. Is loud and obnoxious more or less
14 Mr. Graham's personality to your --

15 A. Pretty much, yes.

16 Q. -- knowledge?

17 The blood alcohol content of .127, I
18 assume that's what you were told. That's not
19 anything that you have personal knowledge of. Is
20 that correct?

21 A. Correct. That's what I was told.

22 Q. And the vial that was supposed to be
23 given to you was dropped and, I guess, destroyed by
24 virtue of the container breaking on the ground?

25 A. Correct.

1 Q. Do you know what happened to the other
2 sample?

3 A. All I know is it went to SLED.

4 Q. I apologize. A lot of things have been
5 covered, so I'm just going through my notes to make
6 sure I have everything.

7 A. Oh, you're fine.

8 Q. It is your understanding that Mariah
9 had two beers and between a third and a half of
10 shot at Carolina Ale House in about an hour and a
11 half or maybe a little bit longer than that. Is
12 that accurate?

13 A. Correct.

14 Q. Had you gone out the Friday and
15 Saturday night before this incident? So I guess
16 that would be August 29th and August 30th, do you
17 recall?

18 A. I was at Caitlin's benefit that Sunday.
19 Friday, I believe, I was out with my mom. Yeah.
20 But Saturday, no.

21 Q. And who is Alicia Hazelton?

22 A. That was Sam's -- Samantha Norton's old
23 roommate.

24 Q. Is she a friend of yours?

25 A. No.

1 Q. Have you spent much time with her?

2 A. Not really. We didn't care for each
3 other.

4 Q. And have y'all always been not on the
5 best of terms, basically, since the day that y'all
6 met?

7 A. Pretty much; yeah. We tolerated each
8 other, but other than that, we didn't care for each
9 other too much.

10 Q. So you've never considered Ms. Hazelton
11 to be a close friend?

12 A. Not at all.

13 Q. Okay. Marry Elizabeth Hoffman, who is
14 she?

15 A. Elizabeth Hoffman, that's actually what
16 we got into the argument the night of the -- the
17 day of the wreck. She -- I let her live with me
18 because she had no where else to go, and she --
19 basically when rent and everything was paid, she
20 left. And we had -- me and my roommate had to come
21 up with \$400 that she was supposed to pay us by the
22 next day.

23 Q. So you -- were you on good terms with
24 her when she moved in with you?

25 A. When she moved in; correct.

1 Q. Okay. But by the time she moved out,
2 she didn't pay her share of the rent?

3 A. Yeah, correct.

4 Q. The relationship had kind of soured?

5 A. Pretty much, correct.

6 Q. Have you received several speeding
7 tickets in South Carolina? Do you know?

8 A. Yeah. I have a handful.

9 Q. Okay. Your -- the police

10 investigation, your driving record was pulled and

11 some speeding incidents are on there, one of which

12 being April 9, 2015, speeding less than ten miles

13 an hour.

14 A. Correct. I was in Orangeburg.

15 Q. Do you recall that incident?

16 A. I do.

17 Q. Can you kind of --

18 A. I just moved out to Orangeburg, so I

19 wasn't really aware of the speed limits, and I

20 think I was going five miles over and they stopped

21 me on Magnolia Street.

22 Q. Is Magnolia Street a highway or is it a

23 city ordinance? Do you have any idea?

24 A. It's -- I believe it's city ordinance.

25 Q. And if you don't know the answer to one

1 of my questions, just let me know. 81

2 A. Okay.

3 Q. That's fine.

4 Another speeding ticket from
5 January 23, 2015. Less than ten miles an hour. Do
6 you recall that?

7 A. That was the same incident, Orangeburg.
8 That's when we were going to look at the house, and
9 I think that was off Highway 21.

10 Q. You believe that is the same incident?

11 A. Yes. I think I was going 40 in a 35.

12 Q. Is it possible that they were separate
13 incidents?

14 A. Yeah. Those are separate incidents.
15 I'm sorry. I misunderstood your previous question.

16 Q. Okay. So -- and just so you know where
17 I'm going, there is one from April 23, 2014, as
18 well, a speeding ten miles or less. It looks like
19 you had three speeding tickets less than ten miles
20 per hour?

21 A. That's correct.

22 Q. And January 23, 2015, do you recall the
23 circumstances of that ticket?

24 A. I know that I missed the court date
25 because I moved back to Lexington, and that's why I

1 had the failure to appear because they sent me a
2 notice saying, Hey, you need to pay this ticket,
3 and I got it paid as soon as I got that notice.

4 Q. Okay. But that January 23, 2015, I
5 think you said that was a separate incident --

6 A. Separate incident.

7 Q. -- Orangeburg ticket?

8 A. Yes.

9 Q. Where did you receive that ticket?
10 What were the circumstances, if you remember?

11 A. I don't recall that one.

12 Q. Okay.

13 A. I don't recall the circumstances.

14 Q. All right. Do you have any
15 recollection of the April 23, 2014, speeding

16 ticket?

17 A. No.

18 Q. Did you surrender your driver's license
19 around 2009 or 2010?

20 A. Correct.

21 Q. What was that for?

22 A. I was with my cousin and he had alcohol
23 in the vehicle, so being that I was 18, they
24 charged me with minor in possession of alcohol.

25 Q. When you say you were with your cousin,

1 was he driving? He or she, I guess.

2 A. Yes. He was driving.

3 Q. Okay. And he had alcohol in the car?

4 A. Yes, and my brother as well.

5 Q. And I assume he was under 18 as well?

6 Everybody in the car was under 18?

7 A. No.

8 Q. I'm sorry, under 21?

9 A. No. He's over 21.

10 Q. Okay.

11 A. He's five years older than me.

12 Q. Okay. Was it an open container?

13 A. Open container, yes.

14 Q. Because you were riding in the car with
15 an open container, they cited you with --

16 A. Minor in position.

17 Q. Okay. Did you take responsibility for
18 that --

19 A. Yes, I did.

20 Q. -- open container?

21 A. Yes.

22 Q. Did you do like a pretrial intervention
23 or anything for that?

24 A. No. I didn't know I had that option.

25 Q. That wasn't offered to you?

1 A. Huh-uh. They just told me to pay the
2 fine and my license would get suspended. My
3 beginner's permit, I'm sorry.

4 Q. These three speeding tickets and this
5 open container, did you ever get an attorney for
6 any of these violations?

7 A. No, sir.

8 Q. Or alleged violations?

9 A. No, sir.

10 Q. Do you recall seeing the Jeep prior to
11 the collision?

12 A. Yes.

13 Q. And where was the Jeep?

14 A. The Jeep was in the right-hand lane and
15 I was going to get over. I was in the middle lane.

16 Q. Do you know if you were slowing down to
17 get over or were you intending to pass the Jeep or
18 do you have any recollection?

19 A. I was going to pass it to get off on
20 Exit 113 --

21 Q. Okay.

22 A. -- to take Tripp home.

23 Q. And it's your testimony that his
24 grabbing your face and then, I guess, your arm or
25 hitting your arm caused the car to jerk and lose

1 control?

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2 A. Correct. I was in the process of
3 passing them.

4 Q. Okay. And the front right passenger
5 side of your vehicle struck the rear of the Jeep?

6 A. Yes.

7 Q. The rear left of the Jeep?

8 A. Rear left, yes.

9 Q. Did you know either passenger in the
10 Jeep?

11 A. No.

12 Q. Were you able to observe at any point
13 that the Jeep was -- I guess a better way to ask it
14 would be, were you able to estimate the speed of
15 the Jeep at any point prior to the collision?

16 A. No.

17 Q. Have you been told that the speed of
18 the Jeep was between 45 and 55 miles per hour
19 according to the driver of the Jeep?

20 A. No. I was told it was 70 miles by the
21 MAIT team.

22 Q. But you are not aware of any statement
23 made by the driver of the Jeep --

24 A. No.

25 Q. -- regarding the speed of the Jeep or

1 why the Jeep was going the speed it was going?

2 A. No.

3 Q. Do you know if Mr. Graham takes any
4 type of prescription medication?

5 A. Not to my knowledge, no, sir.

6 Q. To the best of your observation, was
7 Ms. Pardee composed and able to drive when y'all
8 left the Carolina Ale House?

9 A. Yes.

10 Q. And it's your understanding that you
11 possibly suffered a concussion in the accident?

12 A. Correct.

13 Q. And did you say earlier that the most
14 recent time, to the best of your recollection, that
15 you had been in Carolina Ale House was maybe six
16 months prior to August 31, 2015?

17 A. Correct.

18 Q. All right. I have no further
19 questions.

20 EXAMINATION

21 BY MR. POWELL:

22 Q. Ms. Mills, I'm Warren Powell. I
23 represent the British Bulldog.

24 A. Okay.

25 Q. I just have a few questions for you.

1 A. Okay.

2 Q. I think you testified earlier that at
3 the British Bulldog, someone, I can't remember who,
4 bought you a beer, but that part of it was spilled.
5 How did that happen?

6 A. I was sitting on his lap, Tripp Graham,
7 and he went to go, like, I don't know, move or
8 something, and he dropped me. I had the beer in my
9 hand. It spilled all over that me when I fell and
10 hit my head on the concrete.

11 Q. Did it spill at all?

12 A. Yeah. It spilled all over me.

13 Q. Did you -- what I'm asking is did you
14 drink any of it?

15 A. I had half of it.

16 Q. Before you spilled it?

17 A. Before I spilled it, yes. So half the
18 beer was spilled on me.

19 Q. I see. Did you have anything else
20 alcoholic to drink at the British Bulldog?

21 A. No, sir.

22 Q. Did you have anything else to drink at
23 all at the British Bulldog?

24 A. No, sir.

25 Q. You didn't have any water?

1 A. Oh, water, yes, sorry.

2 Q. Did you -- when, for example, when the
3 beer was spilled, were you inside the bar or
4 outside the bar?

5 A. Outside sitting at the picnic table.

6 Q. Okay. And who else was outside with
7 you?

8 A. Just some other customers. It was just
9 me and Tripp at that point. LB and his girlfriend,
10 I guess, were inside. It was me and Tripp outside.

11 Q. The two of you were outside with some
12 other people?

13 A. Yes.

14 Q. At the same table?

15 A. One was at the same table and there
16 were two other at a separate table.

17 Q. Okay.

18 A. Or standing by the little fire pit.

19 Q. Do you know -- do you have any idea of
20 their names?

21 A. No.

22 Q. Okay. Would you recognize them if you
23 saw them?

24 A. Yes.

25 Q. How old people are we talking about?

1 A. They looked about 35, 40. I know they
2 were African-American.

3 Q. Okay. And had you seen them anywhere
4 else before?

5 A. No, sir.

6 Q. All right. Did -- when -- how long
7 were you at the British Bulldog?

8 A. We got there about 12. Left about
9 1:45, 1:50.

10 Q. Okay. Okay. Do you remember about
11 when that -- in that visit to the British Bulldog,
12 when you -- when you had your beer as opposed to
13 when you left, was it early on or --

14 A. It was early. It was right when we got
15 there.

16 Q. You had a beer and then had about half
17 of it and the rest of it spilled when you fell off
18 of Tripp's lap?

19 A. Correct.

20 Q. And was LB and his lady friend outside
21 when that happened?

22 A. No. They were inside.

23 Q. They were inside the entire time?

24 A. They stepped out for a few minutes, but
25 they mainly stayed in the bar.

1 Q. Okay.

2 A. I was smoking a cigarette.

3 Q. Okay. I see. I see. And did you and
4 Mr. Graham ever go inside for any length of time?

5 A. Yeah. We stayed in there for about
6 45 minutes.

7 Q. Inside?

8 A. Inside, yeah.

9 Q. Okay.

10 A. That's where I was drinking water.

11 Q. Okay. And that was the -- so the event
12 where you had the half a beer and it spilled, the
13 remainder of it, that occurred roughly in the first
14 15 minutes or so after you arrived there?

15 A. Correct.

16 Q. Did you -- did you ask the server for
17 the water?

18 A. Yes.

19 Q. The British Bulldog Pub server, and he
20 brought you some from behind the bar?

21 A. Yes.

22 Q. Okay. That was inside?

23 A. Yeah. I was at the bar.

24 Q. Okay. Had you just finished it or had
25 you finished it by the time y'all left?

1 A. Yes.

2 Q. Okay. So the water was at the very end
3 of your stay there?

4 A. Yes. It was during, probably
5 45 minutes.

6 Q. Okay. How did the beer get ordered?
7 Do you know? Did he --

8 A. Tripp ordered it for me.

9 Q. Were you there when he ordered it or
10 were you outside?

11 A. I was outside.

12 Q. And you know he ordered it because he
13 brought it to you?

14 A. He brought it to me.

15 Q. So the server did not bring you the
16 beer?

17 A. No.

18 Q. Okay. And this is a question. It's
19 not -- I'm bad about doing it. Are you absolutely
20 positive you did not have anything else to drink at
21 the British Bulldog other than one-half a beer?

22 MR. HALL: Objection.

23 BY MR. POWELL:

24 Q. Anything alcoholic at the British
25 Bulldog other than one-half a beer?

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A. Correct.

Q. I don't have anything further.

EXAMINATION

BY MR. HALL:

Q. I got some more questions for you,

Ms. Mills.

A. Is there any way I can go to the
bathroom?

Q. Yes, of course you can. Take a break
right now and just go on out. It's the second door
on your left when you go through the French doors.

VIDEOGRAPHER: Going off the record.
The time is 4:08.

(A recess transpired.)

(Note: Mr. Powell left.)

VIDEOGRAPHER: We're back on the
record. The time is 4:17 p.m.

BY MR. HALL:

Q. Ms. Mills, do you have a drinking
problem, or did you have a drinking problem before
this incident?

A. I did.

Q. All right. And have you been to any
type of a program, such as Lexington Richland
Alcohol and Drug Abuse Program or the Alcoholics

1 Anonymous since this incident started or after this
2 incident?

3 A. I start meetings next week, yes, sir.

4 Q. All right. And are you an alcoholic?

5 A. I didn't think of myself as one. I
6 just -- when I have severe depression and anxiety
7 and that was my way of coping.

8 Q. Okay. And were you on any medications
9 for anxiety or depression at the time of this
10 incident?

11 A. No, sir. I didn't have medications.

12 Q. Were you taking any drugs that night
13 other than the alcohol that you drank?

14 A. No, sir.

15 Q. All right. Now, whenever you --
16 whenever you left the Carolina Ale House, did any
17 bartender ask who was driving?

18 A. No.

19 Q. Whenever you left the Wild Wing Cafe,
20 did any bartender ask who was driving?

21 A. No, sir.

22 Q. Did any bartender at Wild Wing Cafe or
23 the Bulldog Pub or Carolina Ale House offer to call
24 a cab?

25 A. No, sir.

1 Q. Did any bartender at the Carolina Ale
2 House, Wild Wing or the Bulldog Pub know who was --
3 could have known who was driving?

4 MR. CAVANAUGH: Object to the form.

5 MR. REEVES: Object.

6 MR. SWEENEY: Object.

7 BY MR. HALL:

8 Q. Go ahead.

9 A. Not to my knowledge.

10 Q. All right. Now, you said that it
11 was -- that Tripp had been drinking all day?

12 A. Yes.

13 Q. Whenever you met him at the Wild
14 Wing -- I mean at the Carolina Ale House, was it
15 apparent to you that he had been drinking?

16 A. Carolina Ale House?

17 Q. Right.

18 A. Yes.

19 Q. All right. Did y'all go in together?

20 A. At Ale House, no.

21 Q. Right.

22 A. We arrived at separate times in
23 separate vehicles.

24 Q. Was LB and Graham also at the bar?

25 A. They were there in the parking lot when

1 we got there.

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2 Q. They were in the parking lot?

3 A. Correct.

4 Q. So -- but whenever you went in, it was
5 your understanding that LB and Mr. Graham had
6 already been drinking at a friend's house earlier
7 that day?

8 A. Yes.

9 Q. At some sort of a cookout?

10 A. To my knowledge, yes.

11 Q. All right. And, again, it was apparent
12 to you that he had been drinking?

13 A. Correct.

14 Q. And was he already under the influence
15 of alcohol by the time you went into the Carolina
16 Ale House?

17 MR. SWEENEY: Object to the form.

18 BY MR. HALL:

19 A. Yes.

20 Q. Yeah. Can you -- was he -- did he
21 smell of alcohol?

22 A. Yes.

23 Q. What other signs of intoxication did
24 he -- did he give to you?

25 MR. SWEENEY: Object to form.

1 BY MR. HALL:

2 A. Just the way he was acting, like really
3 belligerent.

4 Q. All right. Was he loud?

5 A. Yeah. Being loud, but, I mean, that's
6 also a personality trait in him.

7 Q. Is that a personality trait in him when
8 he's drinking?

9 A. He's normally -- I've seen videos of
10 him and he's normally loud and doing off-the-wall
11 stupid things like being loud, cutting up.

12 Q. Whenever you have seen him, has it been
13 around alcohol?

14 A. Yes.

15 Q. All right. Is there any doubt in your
16 mind that he was intoxicated at the Carolina Ale
17 House?

18 MR. SWEENEY: Object to form.

19 BY MR. HALL:

20 A. He was intoxicated, yes.

21 Q. All right. Looking at Plaintiff's
22 Exhibit No. 5, you have seen that before, both LB
23 and Graham are in that picture. Is that right?

24 A. Correct.

25 Q. And LB has got his arms draped around

1 both you and Mariah Pardee. Is that right?

2 A. Yes.

3 Q. And Graham is standing in the back with
4 two fingers in the air?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. And this guy, Mr. French, he works with
9 your friend Mariah Pardee at Applebee's?

10 A. Correct.

11 Q. Do you have a telephone number for him?

12 A. For Winn French, no, but I believe she
13 does.

14 Q. All right. Does she date him?

15 A. No.

16 Q. Did she at some point in time?

17 A. No, sir.

18 Q. All right. Did any bartender at
19 Carolina Ale House ask any of you whether or not
20 you wanted a cab?

21 A. No.

22 Q. Did any bartender at the Wild Wings ask
23 any of you whether you needed a cab?

24 MR. CAVANAUGH: Object to the form.

25 BY MR. Hall:

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A. No.

Q. You can answer.

A. No.

Q. Did they?

A. No.

Q. All right. Did -- was Tripp Graham intoxicated whenever he went into the Wild Wing Cafe?

MR. CAVANAUGH: Object to the form.

BY MR. HALL:

A. Yes.

Q. Was he?

A. Yes.

MR. SWEENEY: Same objection.

BY MR. HALL:

Q. How was Tripp Graham acting whenever he went into the Wild Wing Cafe?

A. Same way. Just him and LB were cutting up.

Q. When you say cutting up, were they loud?

A. Loud, yes.

Q. Were they obnoxious?

A. Yes. I was sitting there quietly.

Q. And whenever they went in, did they ask

1 for a round of drinks?

2 A. At which --

3 Q. At the Wild Wings.

4 A. Yes.

5 Q. All right. Did you ever tell the
6 police officer that you drank two Red Bull and
7 vodkas at Wild Wing Cafe?

8 A. I believe I said two drinks.

9 Q. All right.

10 A. I didn't specify.

11 Q. All right. Did you tell him that Tripp
12 Graham had drank any portion of it?

13 A. No. I did not tell him that.

14 Q. All right. Was it apparent to you that
15 Tripp Graham was intoxicated whenever he went into
16 the Bulldog Pub?

17 A. No.

18 MS. HEYWARD: Object to the form.

19 MR. SWEENEY: Objection.

20 MR. CAVANAUGH: Same objection.

21 BY MR. HALL:

22 Q. And how was he acting when he went into
23 the Bulldog Pub?

24 A. That's when I noticed his speech was
25 slurred, and he was stumbling all over the place

1 pretty much.

2 Q. Whenever he walked into the Bulldog
3 Pub?

4 A. British Bulldog, correct.

5 Q. Did he --

6 A. And he kept on trying to kiss me there
7 as well.

8 Q. Did anybody at the -- did any of the
9 bartenders or any of the wait staff at the Bulldog
10 Pub ask who was driving that night?

11 A. No.

12 Q. And the same thing for the Wild Wing
13 Cafe, did anybody at that bar ask who was driving
14 that night?

15 A. No, sir.

16 Q. Do you recall whether there were any
17 drink specials that night?

18 A. Not to my knowledge.

19 Q. Do you know what a drink special is?

20 A. Yeah.

21 Q. All right. Was the bartender at the
22 wild -- excuse me, at the Ale House a male?

23 A. The Ale House, yes, he was a male.

24 Q. All right. Was the bartender at the

25 Wild Wing Cafe a male?

1 A. Male.

2 Q. Was the bartender at the Bulldog Pub a
3 male?

4 A. He was a male.

5 Q. All right. Can you describe the waiter
6 or the bartender at the Ale House?

7 A. The Ale House, he was tall, dark hair.
8 He had really good bone structure. I remember
9 that. Other than that, no.

10 Q. All right.

11 A. I remember a black shirt.

12 Q. All right. Can you describe -- can you
13 describe the bartender at the Wild Wing Cafe?

14 A. Wild Wing, it was a white guy, curly
15 hair.

16 Q. All right. How about at the Bulldog
17 Pub?

18 A. I don't recall, because I didn't even
19 talk to him at all.

20 Q. All right. And it's my understanding
21 that you were in the Bulldog Pub about 45 minutes.
22 Is that true?

23 A. It was from 12 o'clock to 1:45, so an
24 hour and 45 minutes.

25 Q. All right. It was my understanding

1 from what had been testified to earlier is that you
2 spent sometime outside and sometime inside. Is
3 that true?

4 A. Correct. Sometime inside and outside.

5 Q. Whenever you got to the Bulldog Pub,
6 did you go to the bar first?

7 A. No. Standing outside smoking a
8 cigarette while Tripp went inside and got the beer.

9 Q. Okay. So whenever you went to the
10 Bulldog Pub, you stayed outside and smoked a
11 cigarette for a while?

12 A. Yes.

13 Q. And at that time he brought you a beer
14 while you were outside?

15 A. Correct.

16 Q. And then did y'all then go back inside
17 the bar?

18 A. I smoked another cigarette.

19 Q. All right. At what point did you go
20 inside of the Bulldog Pub?

21 A. About 12:45.

22 Q. All right. What did you do there?

23 A. I had half a beer and then water.
24 Drank a cup of water.

25 Q. Did you sit at the bar?

1 A. I sat at the bar about 20 minutes,
2 tops.

3 Q. All right. Were you sitting on Tripp's
4 lap at the bar or was that outside?

5 A. That was outside.

6 Q. All right. So, did you have your own
7 chair at the bar?

8 A. Yes.

9 Q. How many people were in the British
10 Bulldog Pub about that time?

11 A. I believe it was three other people
12 minus our four.

13 Q. When you say minus us four, who was us
14 four?

15 A. Tripp, LB, me and the girl.

16 Q. That's the girl that came with LB --

17 A. LB.

18 Q. -- from the Wild Wing Cafe?

19 A. And Ale House; correct.

20 Q. And Ale House. Was she drinking
21 alcohol that night?

22 A. Yes.

23 Q. And was she being -- did Tripp buy her
24 any alcohol?

25 A. He bought everybody's tab for that bar.

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Q. All right.

A. The four of us, LB, me, Tripp and her.

Q. And LB was buying rounds as well?

A. Yes. Not at Wild Wings. I didn't see LB purchase anything at Wild Wing. I think everything was put on Tripp's tab because he made the comment, You're picking this one up since I picked up last tab.

Q. All right. Now, how did LB appear to you that evening?

A. He wasn't as bad as Tripp, honestly. He was still being loud, but I know that's in his general personality. I've seen him enough times to know. He seemed like maybe he had a buzz, but he didn't seem out of the way intoxicated like Tripp was.

Q. All right. At what point did you notice that Tripp was out of the way intoxicated as you described it?

A. At Wild Wings.

Q. All right.

A. As we were walking to British Bulldog.

Q. Did you know that LB -- I mean that Tripp Graham had come to or gone to the Texas Roadhouse Grille with LB to eat dinner?



1 A. It was my understanding that he drove
2 there.

3 Q. All right. It was your understanding
4 he drove there?

5 A. Yeah. Tripp told me that he drove.
6 That's why he asked me for a ride because he said
7 he drove and he didn't want to drive.

8 Q. All right.

9 A. And LB was drinking.

10 Q. How many drinks does it take you to get
11 a buzz?

12 A. Probably about eight, nine.

13 Q. To get a buzz?

14 A. Yeah.

15 Q. Over what period of time?

16 A. Like four to five hours.

17 Q. What kind of alcohol is Grand Marnier?

18 A. I'm assuming a dark liquor, brown
19 liquor.

20 Q. Had you ever had it before that night?

21 A. No.

22 Q. Did you hear any bartender at Bulldog
23 Pub ask LB whether he was driving?

24 A. No, I did not.

25 Q. Were you given any roadside field

1 sobriety tests at the scene?

2 A. No, sir.

3 Q. All right. Did you -- let me ask you,
4 what were your symptoms the day following the
5 wreck?

6 A. The day after?

7 Q. Yes.

8 MR. CAVANAUGH: Objection to the form.

9 MR. REEVES: Object to form.

10 MR. HALL: You can go ahead.

11 BY MR. HALL:

12 A. What do you mean? I mean, after I was
13 sore.

14 Q. Right. Where were you sore?

15 A. My whole body.

16 Q. All right. What other problems --

17 A. My back.

18 Q. -- did you have?

19 A. My head hurt for a good two weeks and
20 now I'm having chronic headaches every day.

21 Q. All right. What else?

22 A. That's about it. I didn't really have
23 any other symptoms.

24 Q. Did you have any nausea?

25 A. No.

1 Q. Any vomiting?

2 A. No.

3 Q. Any sleep disturbance?

4 A. No.

5 Q. Did you have any problems tolerating
6 noise?

7 A. No.

8 Q. Would the best evidence of how much was
9 consumed in alcohol between yourself, Mr. Graham
10 and LB be actual cash receipts?

11 MR. CAVANAUGH: Object to form.

12 MR. REEVES: Objection.

13 MR. SWEENY: Objection.

14 BY MR. HALL:

15 Q. You can answer that question, please.
16 Please answer it.

17 A. What do you mean?

18 Q. Would you rely more on the receipts
19 that the bars had of how much alcohol was served
20 than your memory?

21 MR. SWEENY: Object to form.

22 MR. CAVANAUGH: Object to form.

23 MR. REEVES: Objection.

24 BY MR. HALL:

25 Q. You can answer. Please answer.

1 A. I remember very well what happened that
2 night.

3 Q. But my question is to you -- listen
4 very carefully, would you -- would you believe that
5 the most accurate information pertaining to how
6 much was served to you, Mr. Graham and Mr. Bonner
7 be the receipts that the bar has?

8 MR. SWEENEY: Same objection.

9 MR. CAVANAUGH: Objection.

10 MR. REEVES: Objection.

11 BY MR. HALL:

12 Q. You can answer the question.

13 A. I suppose so, but that doesn't really
14 specify who had what.

15 Q. All right. I think I'm done.

16 MR. CAVANAUGH: I do have a couple
17 follow-ups. Just quick follow-ups.

18 MR. SWEENEY: I have a couple too.

19 MR. HALL: I don't think the rules
20 allow you to do that. And I can point it to you.

21 MR. CAVANAUGH: Point it to me.

22 MR. HALL: Sure.

23 MR. SWEENEY: Absolutely.

24 MR. CAVANAUGH: I think they do.

25 MR. HALL: It proceeds in the same

1 manner at trial. Let me get the rule. I'm going
2 to object. I'm not going to stop you, but I'm
3 going to point out the rule.

4 MR. CAVANAUGH: Why don't you just --
5 you don't have to point out the rule. If it
6 exists, you can point it out later and we'll do it
7 subject to your objection.

8 MR. HALL: That's fine.

9 MR. CAVANAUGH: Taken lots of
10 depositions. This is the first time I've had it
11 raised.

12 MR. HALL: I understand. It's there,
13 I'm telling you.

14 MR. CAVANAUGH: I think it does allow
15 me to go back into areas that you asked about, and
16 so I am going back into an area you asked about.

17 MR. HALL: And my objection is that
18 examination of a witness proceeds at a deposition
19 as it proceeds at trial and, therefore, once I
20 have -- once the question has been put by me on
21 recross, you don't get to ask them again, but go
22 ahead.

23 MR. CAVANAUGH: Thank you for your
24 objection.

25 EXAMINATION

1 BY MR. CAVANAUGH:

2 Q. Ms. Mills, you testified to -- just a
3 minute ago to Mr. Hall that -- well, you responded,
4 I think, yes to a question that he asked you when
5 he asked you whether or not Mr. Graham and
6 Mr. Bonner asked for a round of drinks at the Wild
7 Wing Cafe.

8 A. Yes.

9 Q. All right. And previously you
10 testified that you were sitting between the two of
11 them; right?

12 A. Correct.

13 Q. And previously you testified that you
14 had not purchased any of those drinks yourself
15 because you didn't have any cash. Is that correct?

16 A. Correct.

17 Q. All right. When they asked for a round
18 of drinks at the Wild Wing Cafe, were the drinks
19 served to them and then they distributed them?

20 A. Yes.

21 Q. Okay. So the bartender at Wild Wing
22 Cafe, did he serve you a drink or did he serve it
23 to Mr. --

24 A. He served it to Tripp because Tripp
25 ordered.

1 Q. And then Tripp gave it to you?

2 A. Yes.

3 Q. And would that be both drinks?

4 A. Yes.

5 Q. Okay. I think that's all the questions
6 I have.

7 MR. SWEENEY: I have a couple more.

8 MR. HALL: Same objection.

9 EXAMINATION

10 BY MR. SWEENEY:

11 Q. All right. Ms. Mills, again, if you
12 don't understand my question or you want me to
13 repeat it, just have me do that.

14 Can you please list for me any
15 recollection you have of any specific actions made
16 by Mr. Graham at Carolina Ale House that led you to
17 believe that he was intoxicated?

18 A. Just the way he was. He was very
19 jumpy. He was very -- he's usually a quiet person.
20 He was very talkative that night as well. Just
21 pretty much how he was acting, like it wasn't -- it
22 was out of the norm for him.

23 Q. Right. So I've got he was talkative.

24 A. Yeah. Talkative. And he's usually
25 very quiet.

1 Q. I thought you told me earlier that he
2 can be obnoxious and loud.

3 A. Yes. He can be. When he's around like
4 LB, that's when I notice he's obnoxious and loud is
5 when he's around LB. But when it was just me and
6 him, he wasn't talking the night before. You see
7 what I'm saying?

8 Q. I don't see what you're saying. At
9 least I want to understand what your testimony is.

10 When you say -- what about Mr. Graham
11 being talkative at Carolina Ale House, if that's
12 your testimony, led you to believe that he was
13 intoxicated, if anything?

14 A. His speech, for one.

15 Q. Okay. Tell me about that.

16 A. It was slurred. He was jumping over
17 words. Wasn't really complete sentences.

18 Q. This was at Carolina Ale House?

19 A. Carolina Ale House.

20 Q. Okay. Where -- where were you all when
21 he was having the slurred speech?

22 A. We were out back smoking.

23 Q. Anywhere else?

24 A. No. Not to my knowledge, because he
25 was sitting next to LB and I was beside LB on the

1 other side.

2 Q. Okay. All right. When you say he was
3 jumpy, what does that mean?

4 A. What, with his speech?

5 Q. Is that again relating to his speech?

6 A. Yeah.

7 Q. Okay. That was outside while y'all
8 were talking?

9 A. Outside while we were talking, correct.

10 Q. Okay. Any other specific actions made
11 by Mr. Graham at Carolina Ale House that led you to
12 believe that he was intoxicated?

13 A. No.

14 Q. The jumpiness and the talkativeness,
15 this is a subjective belief by you; is it not?

16 A. Yes.

17 Q. And that subjective impression can vary
18 person to person; could it not?

19 A. Yes. Correct.

20 Q. I mean, if JB (sic) said he was acting
21 normal, would you have any reason to dispute that?

22 A. I didn't -- well, I guess, I mean
23 considering I haven't known him as long as LB has.

24 Q. If LB said that Mr. Graham was acting
25 normally, you would defer to Mr. LB on that

1 opinion?

2 MR. HALL: I object to that --

3 A. Yes.

4 MR. HALL: I object to the form of the
5 question.

6 MR. SWEENEY: I have no further
7 questions.

8 MS. HEYWARD: No questions.

9 MR. HALL: All right. We're done.

10 VIDEOGRAPHER: This concludes -- going
11 off the record. The time is 4:42.

12 (The deposition was concluded at 4:42
13 PM.)

14 (Signature Reserved)

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SIGNATURE OF DEPONENT

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DEPONENT: DESTINY HEATHER MILLS
DEPOSITION DATE: April 26, 2016
REPORTER: SANDRA E. BERKELAND
CASE CAPTION: BRUCE CARLTON JOHNSON, et al. vs.
APPLEBEE'S

(Please return both Signature of Deponent pages)

I, the undersigned, DESTINY HEATHER MILLS,
do hereby certify that I have read the foregoing
deposition and find it to be a true and accurate
transcription of my testimony, with the following
corrections, if any:

PAGE	LINE	CHANGE	REASON
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SIGNATURE OF DEPONENT (CONTINUED)

DEPOSITION DATE: April 26, 2016
REPORTER: SANDRA E. BERKELAND
CASE CAPTION: BRUCE CARLTON JOHNSON, et al. vs.
APPLEBEE'S

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DESTINY HEATHER MILLS Date

I, Sandra E. Berkeland, Notary Public for the State of South Carolina at Large, do hereby certify that the deponent was advised of his or her right to read and sign said deposition both verbally and in writing. If the deponent fails to execute and return foregoing Signature of Deponent pages within the thirty (30) days allowed pursuant to the Rules of Civil Procedure, the original transcript may be filed with the court.

Sandra E. Berkeland

Sandra E. Berkeland, CCR
My Commission expires
September 17, 2023



CERTIFICATE OF REPORTER

I, Sandra E. Berkeland, Certified Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 5th day of May, 2016 at Columbia, Richland County, South Carolina.

Sandra E. Berkeland

Sandra E. Berkeland,
Certified Court Reporter
My Commission expires
September 17, 2023

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