

# Jane Doe vs. XYZ Association, LLC, et. al.

**Case Number:** 101200847  
**Date:** Nov. 19, 2014  
**Deponent:** Richard Cavidad



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**Court Reporter:** Demo + Associates

## Abstract

The deposition of Richard Cavidad in the case of Jane Doe vs. XYZ Association, LLC, et al., Case Number 101200847, took place on 11/19/2014 at 17 East Gay Street, West Chester, Pennsylvania, beginning at 11:05 a.m. Attorneys Sarah L. Mclafferty from Mclafferty & Associates, P.C. represented the plaintiff, and Andrew P. Black from Misc Law Firm represented the defendant. Richard Cavidad, the deponent, was a witness in the case. Cavidad attended West Chester University from 1996 to 2001 and had additional coursework, with nine credits remaining for graduation. He worked at Iron Hill Brewery from 1998 to 2004, Kildare's from 2004 to 2006, and XYZ from February 2006 to February 2012, primarily as a bartender.

The deposition focused on Cavidad's employment history and his recollections of events and individuals related to the case, particularly his interactions with Ryan McCool and Kevin Lukins. He discussed his time working at Kooma, a restaurant and bar, and his observations of Ryan and Kevin as patrons. Cavidad described the layout of Kooma, staffing levels, and typical operations during busy Friday nights. He also detailed the bar's practices regarding serving alcohol, including the absence of a drink limit and the types of drinks served.

Cavidad's testimony addressed his knowledge of a car accident involving Ryan, his limited contact with Ryan post-accident, and his recollections of hearing about the events leading up to the accident. He discussed Ryan's drinking habits, his preferences for Ketel One and tonic, and his general demeanor when visiting Kooma. Cavidad also mentioned a liquor license citation at Kooma for serving alcohol to a minor and his TIPS training certification. He clarified his role at Kooma, emphasizing that he was not involved in managerial responsibilities and primarily worked as a bartender.

PAGE/LINE	SUMMARY	SUBJECT
<a href="#">1:0-3:10</a>	The deposition transcript begins with the case details, including the parties involved, the attorneys representing them, and the location and time of the deposition. It identifies the plaintiff as Jane Doe and the defendant as XYZ Association, LLC, among others. The deposition was held on November 19, 2014, at 17 East Gay Street, West Chester, Pennsylvania, and commenced at 11:05 a.m. The document also lists the appearances of attorneys from McLafferty & Associates, P.C., representing the plaintiff, and Misc Law Firm, representing the defendant. Additionally, an index of the witness and exhibits is provided, indicating the pages where the witness testimony and exhibits can be found.	Deposition details and case background
<a href="#">4:13-5:17</a>	The deposition begins with introductory instructions, including the purpose of the session, the importance of verbal answers, and the option to take breaks. The deponent confirms understanding of these instructions. The deponent provides brief educational background, stating attendance at West Chester University from 1996 to 2001 and additional coursework last spring, with nine credits remaining for graduation.	Deposition instructions and education background
<a href="#">5:16-7:23</a>	The deponent discussed their educational background, employment history, and roles at various establishments. They attended college from 1996 to 2001 and worked at Iron Hill Brewery from 1998 to 2004, starting as a busboy, then a server, and finally a bartender. Between 2004 and 2006, they worked at Kildare's, an Irish pub and restaurant in West Chester, serving for a year and bartending for another year. From February 2006 to February 2012, they worked exclusively as a bartender at XYZ. They were hired at Kooma by Jeff Cerra, the general manager.	Employment history and roles
<a href="#">7:24-8:21</a>	The witness confirmed being hired as a bartender and stated having no recollection of the evening of December 12, 2008. They acknowledged speaking with Mr. Campbell prior to the deposition but did not disclose the content of the conversation due to privilege. The witness did not review any documents or discuss the deposition with anyone else besides Mr. Campbell.	Bartender hiring and deposition preparation

PAGE/LINE	SUMMARY	SUBJECT
<a href="#">8:19-11:3</a>	The witness discussed their interactions with Ryan McCool, whom they met in 2004 when he showed them an apartment at 317 South High Street. They lived there for a year and saw Ryan occasionally for maintenance. Later, they encountered Ryan at Kooma, where he visited regularly with his girlfriend and friends, primarily to eat. The witness also knew Kevin Lukins, who worked with Ryan and was introduced to them at the same time in 2004. Both Ryan and Kevin were seen together frequently, including at Kooma, which was located on Gay Street across from Landmark.	Interactions with Ryan and Kevin
<a href="#">12:16-13:21</a>	The witness provided details about the bar's crowd size, seating capacity, and operations during busy hours. They estimated seating for ten to fifteen people at the bar and recalled that tables were removed around 10:00 or 10:30 PM to accommodate more patrons. Approximately three or four tables were moved, and food and alcohol could still be served at the bar and to standing patrons in the cleared area.	Bar operations and crowd management
<a href="#">14:1-16:2</a>	The witness discusses their recollection of Ryan's presence and accident, mentioning they heard about it through work but were unsure of the exact source. They confirm Ben Goldberg worked as a bartender with them, including Friday nights, and possibly in December 2008. The witness notes no other bartenders worked Wednesday through Saturday and mentions a second bar opening, which they worked at occasionally. Responsibilities between bartenders were not divided; both served customers. The crowd after 10:00 was sometimes younger, with college students frequenting the bar. Ryan's college status was unclear, but he was grouped with Kevin Lukins. Brad Moore, identified as a real estate professional, was friends with Kevin and Ryan.	Ryan's presence and bar dynamics
<a href="#">16:10-17:4</a>	The witness confirmed Brad Moore's presence at Kooma and described methods used to assess patrons' conditions rather than counting their drinks. Observations included glassy eyes, slurred speech, uneven movement, and dozing off. There was no specific system for counting drinks or a maximum limit on drinks served.	Patron behavior and drink assessment

PAGE/LINE	SUMMARY	SUBJECT
<a href="#">17:2-18:9</a>	The witness discussed drink serving practices at Kooma, confirming there was no limit on drinks served per person. They described the Stoli punch, a common drink made with flavored vodkas, orange juice, grenadine, and other juices, served in a pint glass. The drink was not unique to Kooma, as it was widely available in other bars.	Drink serving practices at Kooma
<a href="#">18:8-20:16</a>	The witness discusses Ryan's drinking habits, noting he was not a heavy drinker and preferred Ketel One and tonic. They describe their acquaintance with Ryan and his girlfriend Brittany, mentioning her work at Iron Hill. The witness recalls Ryan and Kevin's fitness habits but does not remember details about December 12th or whether Mike Pino worked as a barback that night. They recount hearing about Ryan's activities before an accident, including drinking at Landmark and Kooma before driving home. The witness does not recall who provided this information or details about the drinks or duration at Landmark but expresses surprise at Ryan and Kevin's alleged inebriation.	Ryan's drinking habits and accident
<a href="#">20:15-20:25</a>	The witness confirms hearing about a car accident but does not recall specific details about the night or who informed them. They estimate learning about the accident one to two weeks after it occurred.	Car accident details
<a href="#">21:1-23:7</a>	The witness provided details about Kooma's operations during a typical Friday night, including staffing levels (two bartenders and four to six servers) and their roles. They discussed the use of Digital Dining, a computer system for processing orders and credit card transactions, which was used in 2008. The witness explained how the system worked, including its interface and credit card swiper functionality. They were not involved in managerial responsibilities and did not recall specifics about the credit card processing company.	Kooma's Friday night operations
<a href="#">24:9-26:15</a>	The witness discusses interactions with Ryan, noting his traumatic brain injury and limited contact, primarily during rent drop-offs. They also mention being friendly with Kevin, who recently married. The witness recalls a liquor license citation at Kooma for serving alcohol to a minor under extenuating circumstances, including a power outage. They confirm the involvement of the LCB in an undercover operation and state no awareness of other citations. Regarding certifications, the witness believes they had TIPS training as of December 2008, though it was not a requirement in Pennsylvania.	Interactions with Ryan and liquor license citation

PAGE/LINE	SUMMARY	SUBJECT
<a href="#">26:14-28:21</a>	The witness discussed their prior experience with a requirement in Pennsylvania and Delaware, confirming they had completed it before. They reviewed photographs of the restaurant Kooma, identifying the layout and changes since 2008, including the addition of a partition and the location of the sushi bar. The sushi bar had sushi chefs but no bartender, and alcohol service required servers to retrieve drinks from the main bar. The bar's size remained unchanged, and staff did not have designated areas to work, instead covering all areas.	Kooma's layout and staff roles
<a href="#">28:20-30:25</a>	The deposition discusses the layout and design of Kooma in December 2008, including table arrangements, color changes, and bar stool differences. It also identifies Dennis Youn as the manager, describing his responsibilities on Friday nights, such as guest interaction, food oversight, and employee support. The testimony confirms that only two bartenders served alcohol, with servers retrieving orders from them.	Bar operations and side bar details
<a href="#">30:23-32:1</a>	The witness confirmed that servers approached them to fill alcohol orders and provided details about the smaller bar's operations, including the presence of a separate bartender and the entrance layout. They clarified that the side bar was accessible only through the restaurant and that the side door was blocked off.	Bar operations and side bar details
<a href="#">32:5-34:8</a>	The witness provided details about hearing of Ryan's accident through the grapevine and expressed being upset about the severity of the accident. They confirmed Ryan's usual drink preferences and stated they never socialized with Ryan or Kevin outside of work. The witness mentioned having contact with Ryan through renting an apartment from his brother's family business, McCool Properties, where Ryan is employed. They observed Ryan's involvement in tasks such as being present when rent is dropped off and notifying about inspections. The witness identified the location for rent payments as MAC Real Estate on High Street.	Ryan's accident and rental interactions

PAGE/LINE	SUMMARY	SUBJECT
<a href="#">35:21-38:3</a>	<p>The witness discusses their brief phone interactions with Ryan after the accident, stating they are too short to assess his state of mind. They confirm having Ben Goldberg's contact information and provide his phone number but no additional details. The witness mentions Ben recently got married but does not know his job or favorite hangout spots. Regarding the night of the accident, the witness recalls hearing multiple versions of events, including Ryan drinking before visiting Landmark and Kooma, then going home and later having the accident. They do not recall specific details about Ryan's alcohol consumption or food intake that night.</p>	<p>Phone interactions and accident recollections</p>
<a href="#">38:1-38:24</a>	<p>The witness was questioned about their knowledge of what someone might have eaten or drunk at Landmark, but they had no information. They did not speak to Ben about seeing Ryan at Kooma and could not recall speaking to anyone else about it. The witness confirmed that both individuals drank Ketel One and tonic, were not big drinkers, typically had two drinks at Kooma, and did not drink anything else.</p>	<p>Ryan's drinking habits and lack of information</p>

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

- - -

JANE DOE :

Plaintiff, :

vs. : No. 101200847

XYZ ASSOCIATION, LLC, :

Et AL. :

Defendants :

- - -

November 19, 2014

- - -

Oral deposition of RICHARD CAVIDAD, taken pursuant to notice, held at 17 East Gay Street, West Chester, Pennsylvania 19381, commencing at 11:05 a.m., before Mary Smith, Registered Professional Reporter, there being present.

Demo + Associates

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Philadelphia, Pennsylvania 19110

215-557-7466

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1 A P P E A R A N C E S :

2

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1 I N D E X

2 WITNESS PAGE

3 Richard Cavidad

4 By Ms. McLafferty 4, 38

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9 E X H I B I T S

10 NO. DESCRIPTION PAGE

11 1 Photo 27

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1 S T I P U L A T I O N

2 It is hereby stipulated and agreed by and  
3 between Counsel that the filing and certification  
4 have been waived, and that all objections, except  
5 as to the form of the question, are waived until  
6 the time of trial.

7 - - - - -

8 RICHARD CAVIDAD, having first been duly  
9 sworn, was examined and testified as follows:

10 BY MS. McLAFFERTY:

11 Q. Good morning Mr. Cavidad. My name is Sarah  
12 McLafferty, and I represent Jane Doe.

13 Have you been deposed before?

14 A. No.

15 Q. Let me just give you some brief instructions.  
16 Essentially, this is a question and answer  
17 session. We are just here to find out what you  
18 remember, as well as what you don't remember.  
19 So, just keep in mind that you don't have  
20 to answer a question that you don't remember, and,  
21 in fact, we would rather you not guess. Do you  
22 understand that?

23 A. Definitely.

24 Q. Essentially, the purpose of the deposition is  
25 to find out what you know. You are under oath

1 today. The court reporter is taking down my  
2 questions and your answers. It's important you  
3 keep your answers verbal.

4 I see you are shaking your head. When we  
5 go back to read the transcript, we can't see your  
6 head shaking.

7 A. I understand.

8 Q. If there is any time you need a break, I don't  
9 think we'll be long. If you need a break, let me  
10 know and we'll accommodate you.

11 A. Okay.

12 Q. Can you give me your educational background,  
13 briefly?

14 A. Yes. I went to West Chester University,  
15 about nine credits away from graduating.

16 Q. What years was that?

17 A. 1996 to 2001. Then, also last spring.

18 Q. As I understand it, you are being deposed  
19 because you were a bartender at XYZ; is that  
20 correct?

21 A. Yes.

22 Q. Can you tell me what period of time you were a  
23 bartender at XYZ?

24 A. From February of 2006 to February of 2012.

25 Q. During those six years, was that the only place

1 you worked?

2 A. Yes.

3 Q. Was your sole responsibility bartender, or did  
4 you have other responsibilities?

5 A. Just bartender.

6 Q. Between 2001 and 2006, did you have any kind of  
7 employment?

8 A. Yes, I worked at Iron Hill.

9 Q. Iron Hill brewery?

10 A. Yes.

11 Q. Did you work at Iron Hill during those five  
12 years?

13 A. I worked at Iron Hill when I was at college,  
14 1998 until 2004.

15 Q. How about between 2004 and when you  
16 started working at Kooma?

17 A. I worked at Kildare's.

18 Q. Is that also here in West Chester?

19 A. Yes.

20 Q. What kind of place is that?

21 A. It's an Irish pub and restaurant.

22 Q. How long did you work at Kildare's?

23 A. For about almost three years.

24 Q. 2004 to 2006?

25 A. Yes.

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1 Q. Was your position at Iron Hill a bartender?

2 A. Initially it was as a busboy, when I first  
3 started, then a server and then a bartender.

4 Q. Can you give me basically the time frame?

5 A. Busser for about half a year, server for a  
6 year-and-a-half, and the rest of the time I was  
7 bartending.

8 Q. Let me give you one more instruction. I know  
9 you know what I'm going to say. Let me finish the  
10 question before you answer. It makes it hard for  
11 him to get us talking at the same time.

12 A. Okay.

13 Q. When you went to Kildare's, were you strictly  
14 a bartender?

15 A. I served and also bartended toward the end.

16 Q. What period of time did you serve and what  
17 period of time did you bartend?

18 A. About a year serving and about a year  
19 bartending.

20 Q. Do you recall who hired you to work at Kooma?

21 A. Jeff Cerra.

22 Q. What was Jeff's position?

23 A. He was the general manager.

24 Q. Were you hired to be a bartender there?

25 A. Yes.

1 Q. Do you have any recollection of December 12th  
2 of 2008, the evening?

3 A. No.

4 Q. Did you have an opportunity to talk to  
5 Mr. Campbell prior to the deposition?

6 A. Yes, I did, right before we got in here.

7 Q. What did you talk about?

8 MR. CAMPBELL: Objection. Don't  
9 answer that, privileged.

10 MS. McLAFFERTY: How is that  
11 privileged?

12 MR. CAMPBELL: I'm representing  
13 him as a former employee of Kooma. I can  
14 represent a former employee.

15 MS. McLAFFERTY: Okay.

16 BY MS. McLAFFERTY:

17 Q. Did you review any documents?

18 A. No.

19 Q. Have you talked to anyone else, other than  
20 Mr. Campbell, about this deposition?

21 A. No.

22 Q. Do you know Ryan McCool?

23 A. Yes.

24 Q. How long have you known Ryan?

25 A. Since 2004.

1 Q. How did you meet him?

2 A. He actually showed me an apartment that I  
3 eventually rented.

4 Q. Where was the apartment?

5 A. 317 South High Street.

6 Q. Can you tell me, after you met him, did you  
7 socialize? What was your relationship after you  
8 met him?

9 A. I saw him doing work in the apartment itself.  
10 I started seeing him once I started working at  
11 Kooma.

12 Q. How frequently did you see him at the  
13 apartment?

14 A. Not very frequently, whenever something  
15 needed to be done. It wasn't on a consistent  
16 basis.

17 Q. How long did you live at 317 High Street?

18 A. One year. For a year.

19 Q. Do you know when it was you saw Ryan at Kooma?

20 A. I think after that, he showed me another  
21 apartment, which we ended up not renting. That was  
22 the next time I saw him. After I started working  
23 at Kooma, I saw him. He would come in there  
24 somewhat regularly.

25 Q. After you started working at Kooma, I think

- 1 you said February, 2006?
- 2 A. Yes.
- 3 Q. When he came in, would he be coming in with
- 4 family or friends?
- 5 A. He usually came in with his girlfriend and his
- 6 best friend, Kevin, and his girlfriend.
- 7 Q. Were they coming in to eat, drink, both?
- 8 A. Mostly to eat.
- 9 Q. Do you know Kevin Lukins also?
- 10 A. Yes.
- 11 Q. How did you know Kevin?
- 12 A. The same way I know Ryan.
- 13 Q. Through the apartment?
- 14 A. Yes.
- 15 Q. When did you meet Kevin?
- 16 A. The same time I met Ryan.
- 17 Q. They were working together?
- 18 A. Yes.
- 19 Q. In 2004 when you met Ryan, you met Kevin?
- 20 A. Yes.
- 21 Q. Do you know the frequency you saw Kevin?
- 22 A. The same as I saw Ryan.
- 23 Q. Were they usually together when you saw them?
- 24 A. Yes.
- 25 Q. When you were working at Kooma, is it fair to

1 say it was the location on Gay Street across from  
2 Landmark?

3 A. Yes.

4 Q. When you started working at Kooma, was  
5 Landmark there yet?

6 A. I don't know. I think it just opened.

7 Q. Did you have a certain shift that you worked  
8 at Kooma?

9 A. Toward the end I worked every Wednesday  
10 through Saturday.

11 Q. Toward the end of the time that you worked  
12 there?

13 A. Yes.

14 Q. As of 2008, do you know whether you were  
15 working Wednesday through Saturday?

16 A. Yes, I was.

17 Q. What hours did you work Wednesday through  
18 Saturday?

19 A. Wednesday, I would come in at 4:00. We would  
20 be done by 11:00. Thursday, I would come in at  
21 4:00, be done about 11:30. Friday and Saturday,  
22 4:00 to 2:00.

23 Q. Were you always working at the bar?

24 A. Yes.

25 Q. Did they serve food at the bar?

- 1 A. Yes.
- 2 Q. What time did they serve food at the bar until?
- 3 A. 12:00.
- 4 Q. Every day until 12:00?
- 5 A. On the weekend, until 12:00. Wednesday and
- 6 Thursday, 10:30.
- 7 Q. Do you recall whether they had a full menu at
- 8 the bar?
- 9 A. Yes.
- 10 Q. How many bartenders did they have on duty at
- 11 Kooma on Friday and Saturday nights?
- 12 A. Two.
- 13 Q. Do you remember, did you typically get a large
- 14 crowd there?
- 15 A. Yes.
- 16 Q. What kind of -- can you give me an idea of the
- 17 crowd you would get?
- 18 A. I don't know the numbers. I just know it would
- 19 get busy.
- 20 Q. Do you know the occupancy there, maximum
- 21 occupancy?
- 22 A. Not exactly.
- 23 Q. Do you remember how many people you could seat
- 24 at the bar?
- 25 A. I think ten to fifteen.

1 Q. We've heard some testimony that there would be,  
2 after a certain hour, tables that would be removed  
3 so more people could come into the bar, is that  
4 your recollection?

5 MR. CAMPBELL: Objection to the  
6 form.

7 THE WITNESS: Yes.

8 BY MS. McLAFFERTY:

9 Q. Do you know what time that would happen?

10 A. Usually around 10:00 or 10:30.

11 Q. Do you remember how many tables would be  
12 moved?

13 A. I think three or four.

14 Q. After the tables were moved, could you still  
15 serve food at the bar?

16 A. Yes.

17 Q. Were you able to serve anyone who was standing  
18 in the area where the tables had been removed?

19 A. Serve them what?

20 Q. Anything, food or alcohol.

21 A. Yes.

22 Q. I already asked you whether you remember the  
23 night of the 12th. You don't remember anything  
24 about that?

25 A. No.

1 Q. Do you remember whether Ryan came in that  
2 night at all?

3 A. I don't.

4 Q. Did you hear about Ryan's accident?

5 A. Yes.

6 Q. How did you hear about his accident?

7 A. Just because, I don't know, just from knowing  
8 people in work. I don't know exactly where I heard  
9 it from. I heard what happened, and I was really  
10 upset about it.

11 Q. There has been a mention of, I think, a Ben  
12 Goldberg. Was he another bartender with you?

13 A. Yes.

14 Q. Do you recall whether he worked Friday nights  
15 with you?

16 A. Yes, he did.

17 Q. Would he have been the bartender who worked  
18 with you in December of 2008?

19 A. I think so.

20 Q. Would there have been any other bartenders  
21 that worked Wednesday through Saturday?

22 A. No. The only thing I can think of, I'm not  
23 sure when the other bar opened.

24 There was a bar on the other side that  
25 opened. I don't remember when it opened.

1 Q. When that bar opened, did you ever work that  
2 other bar?

3 A. Randomly.

4 Q. How about Ben Goldberg, did he work that bar  
5 as well?

6 A. No.

7 Q. If you can, give me an idea of how the  
8 responsibilities were broken down, if at all,  
9 between the bartenders on a busy night?

10 A. We just both worked the bar. There was no,  
11 like, breakdown of any responsibility. We just  
12 took care of the customers.

13 Q. Would it be fair to say that after 10:00,  
14 the crowd was somewhat a younger crowd?

15 A. Sometimes.

16 Q. West Chester is a college town. Did you get a  
17 lot of college students that would come into Kooma?

18 A. Sometimes.

19 Q. Did you know that Ryan was a college kid?

20 A. I didn't know if he was in college. I knew he  
21 was.

22 Q. How about Kevin Lukins?

23 A. I kind of grouped them both the same.

24 Q. Do you know Brad Moore?

25 A. Real estate guy?

- 1 Q. I think so.
- 2 A. Yes, he was friends with Kevin and Ryan.
- 3 Q. Yes?
- 4 A. Yes, I know him.
- 5 Q. And Chris Picariello?
- 6 A. I don't remember that.
- 7 Q. With the nickname Pooch?
- 8 A. It sounds familiar. I can't remember. One of
- 9 my friend's name is Pooch, but it's not Chris.
- 10 Q. So, do you remember whether Brad Moore would
- 11 come into Kooma?
- 12 A. Yes, he would come in.
- 13 Q. Can you give me an idea if at Kooma whether
- 14 there were any methods by which you would count a
- 15 patron's drinks?
- 16 A. It was just like any other, I guess, place I
- 17 have worked where we would just keep track of not
- 18 their drinks but how they looked when they
- 19 appeared at the bar.
- 20 Q. How would you do that?
- 21 A. You would see if they had glassy eyes, if
- 22 their speech was slurred, if their movement was
- 23 uneven, if they were dozing off.
- 24 Q. There wasn't any specific way to count the
- 25 number of drinks that were served?

1 A. Not specifically.

2 Q. Was there any maximum amount of drinks you  
3 would serve to any one person at Kooma?

4 A. No.

5 Q. Did you remember having a drink, a Stoli punch  
6 drink?

7 A. Yes, that is a drink in every bar in town.

8 Q. Was there some special vodka drink that Kooma  
9 was known for?

10 A. No. I mean, a Stoli punch is a Stoli punch.  
11 It's a mixture of different flavored vodkas mixed  
12 with vodka, orange juice and grenadine.

13 Q. How did you make it?

14 A. As I said.

15 Q. Ounces?

16 A. Probably two to two-and-a-half ounces of  
17 alcohol.

18 Q. Would that be different types of vodka?

19 A. Yes, the flavored vodkas. That is why we  
20 call it Stoli punch.

21 Raspberry, orange, vanilla, strawberry,  
22 it's like a Long Island iced tea. It's not a drink  
23 that is specific to Kooma.

24 It seems like everybody has the idea it  
25 was specific to Kooma. Everybody made it and

1 still makes it.

2 Q. The two, two-and-a-half ounces, would that all  
3 be vodka?

4 A. Yes.

5 Q. Then what?

6 A. It would be served in a pint glass, orange  
7 juice, pineapple and cranberry juice.

8 Q. Sixteen ounce glass?

9 A. Yes.

10 Q. Had you ever seen Ryan when he was drunk?

11 A. Never really saw Ryan drunk. He wasn't a big  
12 drinker.

13 Q. Do you know whether he had a drink of choice  
14 when you did see him?

15 A. Yes, he always drank Ketel One and tonic.

16 Q. Did you know anything about Ryan outside of  
17 the real estate and when he would come into Kooma?

18 A. Yes, I mean, I knew him. I would consider him  
19 a friend, because I knew his girlfriend, Brittany,  
20 and they used to come in and they were friendly.  
21 Brittany actually worked at Iron Hill with my old  
22 roommate. So, I knew him, yes.

23 Q. Did you know anything about his work-out  
24 habits? Were you one of the gym guys?

25 A. No, him and Kevin worked out a lot. I knew

1 that. They were really into fitness.

2 Q. You remember nothing about December 12th; you  
3 have no idea if it was a crowded night or anything  
4 like that?

5 A. No.

6 Q. Do you know a Mike Pino?

7 A. Yes.

8 Q. Do you recall whether he was a barback on  
9 Friday night?

10 A. I don't remember that night if he was working  
11 or not, but he was a barback. At first, he worked  
12 the door, then he became a barback.

13 Q. After you heard about the accident, did you  
14 hear about anything that had taken place?

15 A. Yes, I heard that he was drinking beforehand,  
16 and he went to Landmark and then apparently went  
17 to Kooma and then went home, fell asleep and then  
18 woke up and drove his car.

19 Q. So, you heard he was drinking beforehand. You  
20 mean he was drinking before he went to Landmark?

21 A. Yes.

22 Q. Who did you hear that from?

23 A. I don't remember.

24 Q. Do you remember who you heard about the  
25 accident from?

1 A. I don't remember.

2 Q. Do you remember hearing anything about what  
3 they were drinking at Landmark?

4 A. No, I don't remember.

5 Q. Do you remember hearing about how long they  
6 had been at Landmark?

7 A. No. I just found it interesting because I  
8 never saw him or Kevin get inebriated, especially  
9 to that point. It was kind of a shock. They are  
10 not big drinkers.

11 Q. But you heard he had been drinking before,  
12 then he went to Landmark and then to Kooma and then  
13 home?

14 A. Yes, that is what I heard.

15 Q. Then got up and was in a car accident?

16 A. Yes.

17 Q. Any other details you heard about that night?

18 A. I don't remember. It's kind of just a  
19 memory, but I don't remember.

20 Q. You don't remember who told you that?

21 A. No.

22 Q. Do you remember how long after the accident  
23 you heard about it?

24 A. Maybe about a week or two weeks after the  
25 accident.

1 Q. Understanding you don't remember December 12th,  
2 I want to ask you some general questions about how  
3 Kooma operated during that time frame.

4 A. Sure.

5 Q. I understand that a typical Friday night would  
6 be two bartenders on duty?

7 A. Yes.

8 Q. On a typical Friday night, do you remember how  
9 many servers would be on duty?

10 A. Four to six.

11 Q. The two bartenders, the ones that would be  
12 filling the drinks for the servers?

13 A. Yes.

14 Q. And the two bartenders would also be serving  
15 the people at the bar and anyone standing,  
16 correct?

17 A. Yes.

18 Q. I know you don't have any specific numbers,  
19 but can you give me an approximation, typically  
20 what kind of numbers you would serve over the  
21 course of a given Friday night?

22 A. What do you mean numbers?

23 Q. How many people would you serve alcohol to?

24 A. I don't remember.

25 Q. Do you remember the credit card system you

1 used?

2 A. Yes, Digital Dining.

3 Q. What is that?

4 A. A computer system we used.

5 Q. We have the credit card search processing with

6 Hartland, does that sound familiar?

7 A. No.

8 Q. Were you ever involved with any of the

9 managerial responsibilities at Kooma?

10 A. No.

11 Q. Explain to me what Digital Dining is.

12 A. It's a computer interface. Basically, when

13 somebody goes to ring something in, they touch it,

14 and the software information goes into Digital

15 Dining.

16 Q. What information goes in there?

17 A. Mixed drinks, desserts. When you want

18 something, you ring it in on the computer dining.

19 Every restaurant has software. Some use Digital

20 Dining or Aloha.

21 Q. Is it Digital Dining that was used in 2008?

22 A. Yes.

23 Q. Does the Digital Dining take in the credit

24 card numbers as well?

25 A. Yes, it's a full computer that is planted on

1 whatever, a counter.

2 It has a credit card swiper attached to  
3 it. You ring something in, then swipe next to it,  
4 and that is how you start a tab.

5 It would go through Digital Dining. I  
6 don't know what credit card company took care of  
7 the credit cards.

8 Q. On a Friday night, would you have an amount of  
9 cash payers and credit card payers?

10 A. It would vary. Sometimes it would be all  
11 credit card and sometimes all cash.

12 Q. Do you know where Ben Goldberg is now?

13 A. Yes.

14 Q. Where is he?

15 A. In Ardmore.

16 Q. Do you know what he does now or where he  
17 works?

18 A. I don't know what he does, but I know he  
19 lives in Ardmore and just got married a few months  
20 ago.

21 Q. Are you still friendly with him?

22 A. Yes.

23 Q. Do you know if he has a recollection of the  
24 accident?

25 A. I didn't talk to him about it. I didn't know

1 if someone got in contact with him. I didn't  
2 really want to talk to anybody about it.

3 Q. Have you seen Ryan since the accident?

4 A. Yes.

5 Q. Where have you seen him?

6 A. I saw him at Kooma. He would come in  
7 afterwards. I also see him when I got to drop off  
8 my rent. His brother is my landlord.

9 Q. You are still living in one of their  
10 properties?

11 A. Yes.

12 Q. Have you ever talked with him about the  
13 accident?

14 A. No.

15 Q. Have you ever talked with Kevin, or anybody  
16 else about the accident?

17 A. I talked with Kevin, not about the accident,  
18 but how it's sad to see how Ryan is now.

19 Q. Can you be more specific about what you mean  
20 by that?

21 A. Before the accident, he was, like, a really  
22 healthy, strong, athletic kind of guy. Now he has  
23 that traumatic brain injury. He is my friend, and  
24 it's kind of sad.

25 Q. What kind of interaction do you have with

1 Ryan, other than when you see him with the rent?

2 A. That is the only interaction I have with him  
3 now. I don't work at Kooma anymore. He doesn't  
4 come out, and I work somewhere he doesn't come to.  
5 The only time I ever see him is when I  
6 drop off the rent, and we are still friendly. He  
7 calls me, Rick, we are coming over to do something  
8 at the house. That is it. I'm still friendly with  
9 Kevin. I know he just got married.

10 Q. Do you recall any issues, or would you have  
11 been aware of any issues at Kooma where there was  
12 any citations having to do with the liquor license?

13 A. Yes.

14 Q. Tell me about that.

15 A. It was for serving somebody under age.

16 Q. When was that?

17 A. I don't remember the date, but I was the one  
18 that served the person under age.

19 Q. What happened?

20 A. It was a very extenuating circumstance. There  
21 was a bouncer already there. It was after 10:00, I  
22 believe, and the power was off for, I think, fifteen  
23 to twenty minutes.

24 So, we were transitioning, or closing, or  
25 keeping it open. The power came back on.

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1 When you are a bartender and the power is  
2 gone, you assume everyone is getting carded. It  
3 was a frenzy. I don't remember who the person was  
4 I served.

5 Q. Was there some kind of undercover sting  
6 operation that they found that out?

7 A. There was somebody, obviously. They sent  
8 somebody in there, the LCB did.

9 Q. Any other citations?

10 A. Not that I'm aware of.

11 Q. As of December of 2008, did you have any TIPS  
12 or certifications?

13 A. I think I did.

14 Q. We heard testimony that was not a requirement?

15 A. That was not a requirement in Pennsylvania at  
16 that time, but I had done it before. I had done  
17 it in Delaware where I worked briefly for Iron Hill,  
18 and I did it for Iron Hill when I worked there  
19 afterward.

20 Q. I'm going to show you this very quickly, some  
21 pictures of Kooma, and ask you to take a look at  
22 them.

23 These pictures were taken more recently.

24 The restaurant has changed its name. For the  
25 purpose of identifying the layout, I'll let you

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1 look at all of these.

2 Do those pictures pretty much show the

3 layout of the bar as it was when it was Kooma in

4 December of 2008?

5 A. Yes.

6 Q. There is some mention at one point there was a

7 sushi bar, is that right?

8 A. Yes.

9 Q. Where was the sushi bar?

10 A. Where the tables are right here.

11 Basically, it was right here, and the

12 sushi bar is where the partition is there. It went

13 through there and stretched along.

14 MS. McLAFFERTY: Let's mark this

15 as Exhibit-1.

16 (Photograph marked as Exhibit-1

17 for identification.)

18 BY MS. McLAFFERTY:

19 Q. Can you mark where the sushi bar was?

20 A. Here.

21 MS. McLAFFERTY: For the record,

22 he has marked an X on the left hand side of

23 Exhibit-1.

24 MS. McLAFFERTY:

25 Q. Was that partition there or not there?

- 1 A. That was not there.
- 2 Q. That was added after the fact?
- 3 A. Yes.
- 4 Q. This was all one, and this was a sushi bar?
- 5 A. Yes.
- 6 Q. Was there any bartender at the sushi bar?
- 7 A. There was not a bartender at the sushi bar.
- 8 There were sushi chefs.
- 9 Q. If anyone was drinking alcohol at the sushi
- 10 bar, the servers would have to come to you to get
- 11 the alcohol?
- 12 A. Yes.
- 13 Q. Is it about the same size as the bar as it
- 14 was?
- 15 A. Yes, that is exactly the same.
- 16 Q. Did you have a certain side of the bar; in
- 17 other words, if there are two of you, do you work
- 18 the front and he worked the back, or vice-versa?
- 19 A. No.
- 20 Q. Everybody worked everywhere?
- 21 A. Yes.
- 22 Q. The way that the tables are laid out in the
- 23 picture, is that similar way at that time they would
- 24 have been laid out?
- 25 A. Yes, exactly.

1 MR. CAMPBELL: He is looking at a  
2 different picture now.

3 MS. McLAFFERTY: Let's mark that  
4 as Exhibit-2.

5 (Photo marked as Exhibit-2 for  
6 identification.)

7 BY MS. McLAFFERTY:

8 Q. That is how the tables are laid out?

9 A. Yes.

10 Q. Other than that change in the sushi bar, are  
11 there any other changes that you see in the basic  
12 layout of the place?

13 A. Not in the basic layout.

14 Q. The colors have changed?

15 A. Just the colors.

16 MS. McLAFFERTY: I'm going to mark  
17 this as Exhibit-3.

18 (Photo marked as Exhibit-3 for  
19 identification.)

20 BY MS. McLAFFERTY:

21 Q. This kind of shows the bar stools. Is that  
22 approximately the same amount of bar stools that  
23 were there in 2008?

24 A. I would say that it's not the same amount of  
25 bar stools because they had different-sized bar

1 stools. They weren't as small and as compact as  
2 those are in Exhibit-3.

3 Q. Would you describe them, what the bar stools  
4 were like back in December of 2008?

5 A. They were just taller. They were white in  
6 color with a higher backing.

7 Q. Who was the manager in December of 2008 at  
8 Kooma?

9 A. I know Dennis was the manager. I'm not sure  
10 if it was Cat or Janine as the manager.

11 Q. Dennis Youn?

12 A. Yes.

13 Q. What would Dennis do on a Friday night; what  
14 was his responsibility?

15 A. His responsibilities were to interact with the  
16 guests, make sure the food came out of the  
17 kitchen, support the employees on the floor, if  
18 they needed help and ask the bartenders if they  
19 needed anything behind the bar.

20 Q. Is it fair to say, on a given Friday night, at  
21 least for this part of Kooma, that there would only  
22 be two people serving alcohol as bartenders, and  
23 then the servers would come to you to get the  
24 alcohol orders filled?

25 A. Yes.

1 Q. I believe you said you don't know whether the  
2 smaller bar eventually opened on the other side,  
3 was opened in December of 2008?

4 A. I don't remember.

5 Q. When it was opened, do you know whether or not  
6 there was a separate bartender there serving  
7 alcohol?

8 A. Yes, they had another bartender there.

9 Q. Was there a separate entrance?

10 A. It was through the side of the restaurant.  
11 Where Exhibit-3 is, right there, you would walk past  
12 seats and there was an entrance.

13 MS. McLAFFERTY: Let me show you  
14 this, which I'll mark as Exhibit-4.  
15 (Photo marked as Exhibit-4 for  
16 identification.)

17 BY MS. McLAFFERTY:

18 Q. As I understand it, the front door to Kooma  
19 was over here where you see the stand?

20 A. Yes, and this is the side door.

21 Q. Could you get into the side bar from the  
22 street without walking through?

23 A. No.

24 Q. There is a door there. I guess that was  
25 blocked off?

1 A. Yes, that was definitely blocked off.

2 MS. McLAFFERTY: I think that is

3 all I have.

4 BY MR. MANN:

5 Q. Just a few followup questions.

6 You testified you kind of heard about

7 Ryan's accident through the grapevine, but you are

8 not sure who?

9 A. Yes.

10 Q. I believe you mentioned you were very upset

11 about it when you heard. What was the it that made

12 you upset?

13 A. What happened to him.

14 Q. The fact he was in an accident or the fact

15 you might have been the individual serving him?

16 A. The fact he was in an accident and the

17 severity of the accident.

18 Q. I believe also you mentioned a Ketel One and

19 tonic?

20 A. Yes.

21 Q. Was that always what Ryan drank?

22 A. Yes.

23 Q. Did you ever serve him anything other than a

24 Ketel One and tonic?

25 A. No. That is all that him and Kevin drank.

1 Q. Did you ever socialize with Ryan or Kevin  
2 outside of your position at Kooma?

3 A. What do you mean socialize?

4 Q. Did you ever meet him and hang out with them  
5 and drink at a bar somewhere?

6 A. No.

7 Q. Any personal events, birthdays, anniversaries?

8 A. No.

9 Q. Do you have any contact with Ryan now at all?

10 A. Yes.

11 Q. That is with respect to something about your  
12 apartment?

13 A. Yes, I rent through his brother, Andy McCool,  
14 and he works for Andy, or they work together. It's  
15 a family business. When I go to pay my rent, I  
16 drop it off in person, and he is there.

17 Q. Do you understand Ryan McCool is still  
18 employed by McCool Properties?

19 A. Yes.

20 Q. Have you seen Ryan do anything that would lead  
21 you to believe that he is employed?

22 What types of tasks does he do for McCool  
23 Properties that you are aware of?

24 A. The only thing I know, he is there when I drop  
25 the rent off, and sometimes he calls me and let's me

1 know when people are coming over for inspection.

2 MR. CAMPBELL: I'm a little

3 confused. Where are you talking about?

4 BY MR. MANN:

5 Q. Where is it you go to drop off the checks?

6 A. MAC Real Estate on High Street.

7 Q. MAC Real Estate?

8 A. Yes.

9 Q. M-A-C?

10 A. Yes, right across the street from the 711.

11 Q. How far back from today do you recall going to

12 drop off checks and seeing Ryan there in an

13 employed position or handling duties for McCool

14 Properties?

15 A. A few months ago.

16 Q. So, a few months ago is the first time you

17 have seen him at McCool Properties since the day of

18 the accident?

19 A. No. I saw him before that.

20 Q. How many times have you seen Ryan McCool at

21 MAC Real Estate when you went to drop off your

22 checks?

23 A. A couple of times.

24 Q. At least two times?

25 A. Yes.

1 Q. More than five times?

2 A. No.

3 Q. How many times have you received a phone call  
4 from Ryan McCool regarding MAC Properties or MAC  
5 Real Estate?

6 A. Maybe, like, two or three times.

7 Q. When he calls, he is calling as a  
8 representative of MAC Real Estate or McCool  
9 Properties?

10 A. He just says, Rick, it's Ryan, I'm giving you  
11 notice somebody is coming over to drop something  
12 off or inspect your apartment tomorrow.

13 MR. CAMPBELL: This is after the  
14 accident?

15 THE WITNESS: Yes.

16 BY MR. MANN:

17 Q. Have you ever called Ryan to talk about your  
18 apartment, or anything to do with McCool  
19 Properties?

20 A. No. I usually talk to Kevin or Andy directly.

21 Q. Your interaction with Ryan, recent  
22 interactions after the date of the accident, when  
23 you talk to him on the phone, does he appear to  
24 have an idea of what is going on?

25 A. I necessarily don't talk to him long enough to

1 be able to assess that. It's usually like less  
2 than a minute phone call. I don't think it would  
3 be fair to assess it that way, to give an  
4 assessment of his state of mind.

5 Q. Fair enough.

6 When you do speak to him, does he appear  
7 to get what he told you a few seconds before that?

8 A. Like I said, the longest I spoke to him was a  
9 minute. I never got that idea that he did or did  
10 not.

11 MR. MANN: Can we take a few  
12 minutes break?

13 MR. CAMPBELL: Yes.

14 (At this time, a short recess was  
15 taken.)

16 BY MR. MANN:

17 Q. Mr. Cavidad, as far as Ben Goldberg, do you  
18 have his telephone number?

19 A. Yes.

20 Q. Would you provide it to us?

21 A. Yes.

22 Q. What is his number? And if you have his home  
23 address, that would be great.

24 A. 610-360-6688.

25 Q. Any other contact information, home address?

- 1 A. No.
- 2 Q. Have you spoken to him recently?
- 3 A. Yes.
- 4 Q. How is he doing?
- 5 A. Good. Just got married.
- 6 Q. Do you know what he is doing in Ardmore, a job  
7 or anything like that?
- 8 A. No.
- 9 Q. Favorite place to hang out?
- 10 A. No.
- 11 Q. As far as the stories or version you heard as  
12 far as the night of the accident, I believe you  
13 summarized it with Ryan was drinking before he went  
14 to Landmark, Kooma, went home, fell asleep and went  
15 out and then had the accident. Was that all from  
16 one individual?
- 17 A. I don't remember.
- 18 Q. It's possible it was from a few stories?
- 19 A. Yes.
- 20 Q. December 12th into the 13th?
- 21 A. I don't remember. It's a long time ago.
- 22 Q. Did you happen to hear anything at all, as far  
23 as what Ryan may have consumed, as far as alcohol,  
24 prior to leaving his house, or going out?
- 25 A. No, I didn't.

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1 Q. Anything at all as far as what he might have  
2 had to eat or drink at Landmark?

3 A. No idea.

4 Q. Ben didn't happen to say he recalled seeing  
5 Ryan at Kooma that night?

6 A. I didn't speak to Ben about it.

7 Q. Do you recall anybody's name you did speak  
8 with about this?

9 A. No.

10 MR. MANN: No further questions.

11 Thank you.

12 MS. McLAFFERTY:

13 Q. Real quickly, you mentioned that they both  
14 drank Ketel One and tonic?

15 A. Yes.

16 Q. Your impression is neither one were big  
17 drinkers?

18 A. No.

19 Q. How many drinks would they have when they came  
20 into Kooma?

21 A. Two.

22 Q. You never saw him drink anything other than  
23 Ketel One and tonic?

24 A. No.

25 MS. McLAFFERTY: That is all I

1 have.

2 MR. CAMPBELL: You are done, sir.

3 (Deposition concluded at 11:55 a.m.)

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C E R T I F I C A T I O N

I, Mary Smith, Registered Professional  
Reporter, do hereby certify that the proceedings and  
evidence are contained fully and accurately in the  
notes of testimony taken by me on the foregoing  
matter and that this is a correct and certified  
transcript of the same.

-----  
Mary Smith, R.P.R.