

October 31, 2022

Mr. Scott Lidji  
The Lidji Firm  
Meadow Park Tower  
10440 N. Central Expressway  
Suite 1240 Dallas, TX. 75231



**RE:** Patel v. Cory Ryan Ruiz, Laura Ann Ruiz, and The Chicken Place, Inc. D/B/A Cheeves Brothers Steakhouse, Geico County Mutual Insurance.

Dear Mr. Lidji,

I have reviewed the documents sent to me to provide my opinion (s) regarding the incident described below.

On Thursday, July 19, 2018, at approximately 10:50 pm, Trooper John Merriman was dispatched by the Coryell County Sheriff's Office to a two-vehicle crash on State Highway 36.

- Driver 1, Cory Ruiz, was a server at Cheeve's Brothers Steakhouse in Temple, Texas.
- Driver 2 was Miten Kirit Patel. (Deceased)

Cory Ruiz had a BAC of 0.164 at 12:15 am when Kelsey Brungs collected his blood work. He admitted to consuming wine from a customer's glass he placed inside a dirty bus tub while working at Cheeves Brothers Steakhouse.

#### **MATERIALS REVIEWED**

1. Lauren Elizabeth Wilson Deposition Volume 1 / Volume 2 / Volume 3.
2. Tevin McMillin Deposition.
3. Shanna Kimbrel Deposition Volume 1.
4. Shanna Kimbrel Deposition Volume 2.
5. Kathleen Joyce Phoenix Deposition.
6. Cheeves Brothers Objections and Responses To Plaintiff's Request For Admissions.
7. Cheeves Brothers Objections and Responses To Plaintiff's Seventh Request For Production.
8. Cheeves Brothers Responses To Plaintiff's Request For Disclosure.
9. Cheeves Brothers Third Amended Response To Plaintiff's Request For Disclosure.
10. Larry F. Smith Forensic Alcohol Calculation Report For The Lidji Firm.
11. Cory Ruiz Deposition.
12. Cory Ruiz 001.
13. Cory Ruiz 002.
14. Cory Ruiz 003.
15. Redacted and Highly Confidential Purchase Agreement.

## **EXPERIENCE**

Reference Curriculum Vitae of Preston Rideout included with the disclosure.

## **TERMINOLOGY**

Herein, **CBS** is used to reference **Cheeves Brothers Steakhouse**.

## **OPINIONS**

Using the consultant's 30 years of restaurant, nightclub, and Bar operating experience, professional work history, responsible alcohol service training, and review of the materials, within a reasonable degree of professional certainty, the consultant opines the following;

### **(1). Lauren Elizabeth Wilson Does Not Have Industry Standard Management Experience or Industry Standard Qualifications To Operate CBS Responsibly.**

Her work history fails to provide any meaningful management experience, much less actual qualifications. Moreover, serving and bartending at The Chicken Place, Outback Steakhouse, Olive Garden, Pappadeaux, J.R.'s Steakhouse, and Nick & Sam's do not demonstrate the traditional career trajectory of someone in a similar position.

Industry Standard Management Experience and Qualifications require decades of escalating professional work history, if not multi-decades. They cannot be assumed through nepotism. Lauren Elizabeth Wilson's ascension into senior restaurant management leadership occurred through hiring negligence with no vetting process.

Other than **CBS**, owned by her parents, no restaurant in the nation would consider Lauren Elizabeth Wilson for a similar position. In no way, shape or form does any portion of her professional work history qualify her to be considered for her role at **CBS**.

### **(2). Lauren Elizabeth Wilson Does Not Exercise Meaningful Industry Standard Employee Oversight Because She Has Little To No Management Experience or Qualifications**

Because bartending and serving yield little to no management experience or qualifications, she cannot exercise meaningful industry-standard employee oversight indicative of senior restaurant management in a similar position. Lauren Elizabeth Wilson's failure to exercise meaningful industry standard employee oversight is highlighted by the following;

- Her failure to prevent Cory Ruiz from consuming alcohol at **CBS**.
- Her failure to prevent Cory Ruiz from becoming intoxicated at **CBS**.
- Her failure to identify Cory Ruiz's state of intoxication before he departed from **CBS**.
- Her failure to prevent Cory Ruiz from driving impaired due to alcohol consumption at **CBS**.
- Her failure to compel Tevin McMillian to tell management Cory Ruiz was drinking alcohol.

- Her failure to compel Tevin McMillin to tell management Cory Ruiz smells like Jack Daniels near the end of his shift.

Lauren Elizabeth Wilson says there is no evidence Cory Ruiz was drinking alcohol at **CBS**. She met with Cory Ruiz at 10 pm and said he was sober, had not been drinking, was not intoxicated, and didn't smell like Jack Daniels.

- Despite Tevin McMillin testifying to Cory Ruiz drinking wine from a bus tub.
- Despite Tevin McMillin testifying to Cory Ruiz smelling like Jack Daniels during his shift.
- Despite Tevin McMillin testifying to Cory Ruiz showing him a bottle of Jack Daniels in his car.
- Despite Tevin McMillin testifying to employees drinking alcohol out of bus tubs.
- Despite Cory Ruiz acknowledging his alcohol consumption at work.
- Despite Trooper Salle observing six clues of intoxication and or impairment.
- Despite Cory Ruiz having a BAC of 0.164 at 12:15 am, when his blood was collected.
- Despite Cory Ruiz exhibiting signs of intoxication while visiting Mr. Hurt after work.
- Despite Kathleen Phoenix stating she got off work at 8:40 pm and does not recall speaking to Cory Ruiz and cannot testify that he was sober when he left **CBS** at 10:00 pm.
- Despite Shanna Kimbrel stating she did not speak with Cory Ruiz at the end of his shift and cannot testify he was sober at 10:00 pm.

In volume 2, page 141, of Lauren Elizabeth Wilson's deposition, when asked who is responsible for ensuring employees are not drinking while working at **CBS**; she replies, "It's everyone's responsibility, and everyone knows they are not allowed to consume alcoholic beverages."

Obviously, it's not everyone's responsibility, and not everyone knows not to consume alcohol while working at **CBS**.

- Cory Ruiz consumed alcohol working at **CBS**.
- Tevin McMillin watched Cory Ruiz drink alcohol and did not notify management.

In volume 3, page 326, of Lauren Elizabeth Wilson's deposition, when asked who is responsible for ensuring employees are not consuming alcohol, she replies, "Other employees have a responsibility to observe things, to keep their eyes open and to report any violations to management." However, Tevin McMillin watched Cory Ruiz drink alcohol and did not notify management.

In volume 3, page 330, of Lauren Elizabeth Wilson's deposition, she acknowledges **CBS** is responsible for making sure Tevin McMillin knows the rules and follows them. However, he demonstrates a lack of rule knowledge by not notifying management that Cory Ruiz was drinking alcohol and smelled like Jack Daniels near the end of his shift.

**(3). Lauren Elizabeth Wilson Demonstrates Her Lack of Industry Standard Management Experience or Industry Standard Qualifications By Willfully Relinquishing Responsibility for Employee Conduct at The Door.**

By her admission, Lauren Elizabeth Wilson believes her responsibility for employee oversight stops at the door. Her willingness to relinquish oversight at the door and not take responsibility for employee conduct is astonishing. Bestowing **CBS** employees the autonomy to wander around the parking lot while clocked in and working is pure insanity. Employing this operating philosophy is low-level textbook leadership indicative of someone with no industry standard management experience or qualifications.

**(4). CBS Fails To Conform To Industry Standard Employee Training.**

In volume 2, page 167/ 168, of Lauren Elizabeth Wilson's deposition, when asked if Cheeves had hired any independent safety companies to help with employee training, she replied, no. However;

- Lauren Elizabeth Wilson is not TABC certified.
- Lauren Elizabeth Wilson did not participate in the TABC Managers Awareness Program.
- Lauren Elizabeth Wilson did not participate in TABC Alcohol Seller/Server Training.

TABC exists for a reason, and that reason is to govern the responsible distribution of alcohol. Manager Awareness Training and Seller/Server Training codify alcohol service expectations so everyone in Texas follows the same TABC alcohol service guidelines.

- Had Lauren Elizabeth Wilson participated in the TABC Seller/Server Training, she would have been taught steps to responsible alcohol beverage service, including Signs of Intoxication.
- Had Lauren Elizabeth Wilson participated in the TABC Managers Awareness Training, she would have been taught Not To Allow Any Employees To Drink Alcoholic Beverages While Working and that Managers are responsible for Employee Conduct.

In volume 3, page 355, of Lauren Elizabeth Wilson's deposition, she mentions a management agreement whereby she received training from Blake Van Dusen and Rajee Patel.

In volume 3, page 359, of Lauren Elizabeth Wilson's deposition, she says Blake Van Dusen and Rajee Patel were hired by The Chicken Place and retained as contract employees to familiarize her with systems, procedures, protocols, and day-to-day operations.

In volume 3, page 360, of Lauren Elizabeth Wilson's deposition, she says she received roughly six weeks of transitional training from Blake Van Dusen, Rajee Patel, and DD Cunningham.

Lauren Elizabeth Wilson either received training or did not receive training. In volume 2 of her deposition, she denies receiving training. In volume 3 of her deposition, she says she received six weeks of training. I can't render an opinion as to whether she did or did not receive training. The purchase agreement language is ambiguous, and the details are vague. "To ensure smooth transfer" does not reference accident prevention, risk management, safety or employee handbooks."

**(5). CBS Employee Handbook Fails To Conform To Industry Standard Training And Operating Procedures Because Lauren Elizabeth Wilson Does Not Know If It's Been Updated In 18 Years and Cannot Produce Any Signed Acknowledgement Receipts.**

The **CBS** employee handbook might or might not be 18 years old. Unfortunately, Lauren Elizabeth Wilson does not know if it's been updated in the past 18 years or if it's outdated by 18 Years. However, my review of the handbook reflects that it was authored before the Vickers family ownership. Either way, she fails to produce any signed documentation acknowledging **CBS** employee handbook receipt or training program participation.

Acknowledgment receipts exist for a reason, and that reason is to document the distribution of information. The **CBS** employee handbook has a blank acknowledgement receipt page for employees to sign, but Lauren Elizabeth Wilson cannot produce any signed documentation acknowledging handbook receipt or training program participation.

No signatures and no documentation equal no proof of receipt or participation. Whether anyone ever received the **CBS** employee handbook or participated in **CBS** training is pure speculation.

**(6). CBS Hiring And Onboarding Fails To Conform To Industry Standard Operating Guidelines For Retaining New Employees**

Based on the information provided, **CBS** hiring and onboarding does or does not conform to industry standard operating guidelines.

According to Joe Wilson, **CBS** does not employ pre-employment vetting. However, Lauren Elizabeth Wilson states, "Perhaps he (Joe Wilson) didn't understand the technicality of the question."

It's quite simple;

- **CBS** runs criminal background checks, or **CBS** does not run criminal background checks.
- **CBS** conducts employment discovery, or **CBS** does not conduct employment discovery.

Responsible restaurant operators demonstrate compliance with industry-standard operating guidelines for retaining new employees by running criminal background checks and conducting previous employment discovery. Having run a background check, **CBS** might have discovered

that Cory Ruiz was an alcoholic, had a history of drinking on the job, and would not have hired him as an employee. Yet, unlike responsible restaurant operators, **CBS** cannot produce any documentation they vetted Cory Ruiz or checked his employment history.

### OPINION SUMMATION

It's my professional opinion, within a reasonable degree of probability,

- Cory Ruiz consumed alcohol at **CBS**.
- **CBS** had a duty to control and ensure its employees followed handbook rules.
- **CBS** had a responsibility to train Tevin McMillin to report alcohol consumption to management, and had he received meaningful training, he would have notified management of Cory Ruiz's alcohol consumption and prevented this unfortunate accident.

I also believe Cory Ruiz was intoxicated when he met with Lauren Elizabeth Wilson at the end of his shift. Lauren Elizabeth Wilson testifies there is no evidence Cory Ruiz was drinking alcohol despite;

- Tevin McMillin witnessed Cory Ruiz drinking out of a bus tub.
- Tevin McMillian saying Cory Ruiz showed him a bottle of Jack Daniels.
- Tevin McMillin saying Cory Ruiz smelled like Jack Daniels at the end of his shift.
- Cory Ruiz testifying he consumed alcohol during his shift at **CBS**.
- Trooper Salle observing six clues of intoxication and or impairment.
- Cory Ruiz's BAC was 0.164 at 12:15 am when Kelsey Brungs collected blood.
- Mr. Hurt saying Cory Ruiz exhibited signs of intoxication while visiting him after work.
- Kathleen Phoenix, not being able to testify, Cory Ruiz was sober when he left **CBS**.
- Shanna Kimbrel not being able to testify Cory Ruiz was sober when he left **CBS**.

Due to alcohol consumption at **CBS**, Cory Ruiz became intoxicated and should not have been operating a motor vehicle after his shift was over. Additionally, due to his intoxication, it's foreseeable that if Cory Ruiz drove his car while under the influence of alcohol, the likelihood of injury to himself and others may occur would be increased.

**CBS** failure to promote alcohol awareness among staff to prevent employees like Cory Ruiz from consuming alcohol, becoming intoxicated, and driving home impaired is characterized by;

- Lauren Elizabeth Wilson's failure to host alcohol safety meetings.
- Lauren Elizabeth Wilson's failure to provide alcohol safety training.
- Lauren Elizabeth Wilson's failure to achieve industry-standard management experience.
- Lauren Elizabeth Wilson's failure to achieve industry-standard management qualifications.
- Lauren Elizabeth Wilson's failure to exercise Industry standard employee oversight.
- Lauren Elizabeth Wilson's failure to participate in TABC seller/server training.
- Lauren Elizabeth Wilson's failure to participate in TABC management awareness training.

- Lauren Elizabeth Wilson's failure to receive any TABC certifications.
- Lauren Elizabeth Wilson's failure to receive alcohol safety training from Blake Van Dusen.
- Lauren Elizabeth Wilson's failure to receive alcohol safety training from Rajee Patel.
- Lauren Elizabeth Wilson's failure to know if the **CBS** handbook has been updated.

It's my professional opinion, within a reasonable degree of probability, **CBS** Employee Alcohol Consumption Peer Policing failed to achieve meaningful execution in 3 ways;

1. It did not prevent Cory Ruiz alcohol consumption during his shift at **CBS**.
2. It did not prevent Cory Ruiz alcohol intoxication during his shift at **CBS**.
3. It did not prevent Cory Ruiz from driving while impaired after his shift at **CBS**.

Tevin McMillin witnessed Cory Ruiz drinking and said he smelled like Jack Daniels at or near the end of his shift but did not convey this information to management. In doing so, Tevin McMillin demonstrates a blatant disregard towards **CBS** Employee Alcohol Consumption Peer Policing. Tevin McMillin's code of silence fosters a culture of employee alcohol consumption at work.

The cost of having floor staff/ management/ Lauren and Joe Wilson supervise their employees to ensure they are not drinking alcohol on their shift outweighs the social utility of protecting the public from drunk driving.

#### **RIGHT TO REVISE THE REPORT**

I reserve the right to add, amend, supplement, or subtract from this report as new evidence and information is produced during discovery or as other opinions are formulated.

Respectfully submitted,

*Preston Rideout*

Preston Rideout