

PEOPLE | PROPERTY | REPUTATION

ASSET PROTECTION



THE VOICE OF FOOD RETAIL 

PEOPLE | PROPERTY | REPUTATION

UTOPIA vs. REALITY

Developing a Go Team & Claim Handling
Protocols to Investigate, Avoid and Mitigate
your Fleet or Catastrophic Personal Injury
Claims



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Litigation Cost Containment

When is a little Really Enough?

- Life is a Matter of Perspective!
- No two Clients or Programs are Alike!

How Do You Identify a Catastrophic Claim?

- Negligent security
- Product Liability involving multiple claimants
- Man vs. Truck (Transportation Claim?)
- Traumatic injuries, shootings, robberies, death..
- Anything attracting the Media

Litigation Cost Containment When is a Little Really Enough?

- Let me tell you a story?



Litigation Cost Containment When is a Little Really Enough?

- What Steps are We Taking to Investigate and Document Claims:
 - Incident Report?
 - Preserving Store Video?
 - Identifying Witnesses?
 - Recorded/Written Statements?
 - Photographs?

GUEST INCIDENT INVESTIGATION

GENERAL INFORMATION

This Form is to be completed by the Store Manager or an On-Duty Manager

Manager's Name _____ Store Name _____

Store Number _____ Store Address _____

Store Phone Number _____ Claim Number _____

Date of Loss _____ Reported By: _____

ACCIDENT INFORMATION

Time of Loss _____ Location of Loss _____

Person(s) Notified of Loss at Employer's _____

Person(s) Contact Information _____

Were There Any Non-Employed Witnesses? _____ If Yes, Please List All Contact Information Below:

Witness Name: _____ Phone # _____ Address _____

Non-Employee Witness Statement _____

Were There Any Employed Witnesses? _____ If Yes, Please List All Contact Information Below:

Witness Name: _____ Phone # _____ Address _____

Employed Witness Statement _____

INJURED GUEST INFORMATION

Guest's Name _____

Street Address _____ Social Security Number _____

Home Phone # _____ Mobile Phone # _____ Business Phone # _____

E-mail _____ Gender M / F Marital Status _____ Date of Birth _____

Hospital Name & Address _____

Clinic/ Physician Name & Address _____

Treatment Received _____ Date Received _____

Property Damage _____

ACCIDENT INVESTIGATION INFORMATION

Confirm Incident Occurred _____

Type of Incident _____

Exact Location of Accident _____

Is the Location on the Store Premises? _____ If No, then Where Is It? _____

Which Part of the Body was Injured? _____

Describe the Injury _____

How Did the Accident Occur? _____

Emergency Care Offered? _____ Accepted? _____

In What Activity was the Injured Guest Engaged at the Time of the Accident? _____

What Caused the Accident? _____

Any Contributing Conditions? _____

Was a Third Party Involved? _____

List Any Equipment or Objects Involved in the Accident _____

Did We Retain the Object? _____ Where is the Object? _____

Was Any Foreign Substance Involved? _____ If So, What was it and Where was it? _____

Were Any Pictures Taken of the Scene? _____ If so, by whom? _____

Written Statement from Injured Guest _____

Litigation Cost Containment When is a Little Really Enough?

- What about the Money!



Litigation Cost Containment

When is a Little Really Enough?

- What is a Judicial Hell Hole?:

“What I call the ‘magic jurisdiction,’ where the judiciary is elected with verdict money. The trial lawyers have established relationships with the judges.. And it’s almost impossible to get a fair trial if you’re a defendant in some of these places.. Any lawyer fresh out of law school can walk in there and win the case, so it doesn’t matter what the evidence or law is.”

Litigation Cost Containment When is a Little Really Enough?

- Quote from now incarcerated and disbarred Richard “Dickie” Scruggs of Mississippi



Litigation Cost Containment When is a Little Really Enough?



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When is a Little Really Enough?

- America Tort Reform Foundation's Judicial Hell Hole's:
 - Top Five:
 - California
 - West Virginia
 - Madison County, Illinois
 - New York City and Albany, New York
 - Baltimore, Maryland
 - Watch List Top Five:
 - Philadelphia
 - South Florida
 - Cooke County
 - New Jersey
 - Nevada

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When is a Little Really Enough?

• <u>Alabama</u>	<u>Mississippi</u>	<u>Maryland</u>
— Greene	Jefferson	Baltimore City
Hale	Jones	Prince
Washington	Holmes	
Lowndes	Humphreys	
Dallas	Coahoma	

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When is a Little Really Enough?

- Arkansas
Phillips
Lee
Crittenden
St. Francis
Drew
- Kentucky
Knott
Pike
Clay
Magoffin
Letcher
- Tennessee
Putnam
White
Giles
Shelby
Warren

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When is a Little Really Enough?

• <u>Texas</u>	<u>South Carolina</u>	<u>Virginia</u>
Beaumont	Allendale	Portsmouth
Orange	Hampton	Norfolk
Jefferson	Fairfield	Petersburg
Maverick	Colleton	Covington
“The Valley”		Louisa

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When is a Little Really Enough?

- **Florida**
Broward
Palm Beach
Miami/Dade
Escambia
Orange
Hillsborough
- Georgia**
DeKalb
Clayton
Richmond
Baldwin
Chatham
Bibb
- Louisiana**
Orleans
Cameron
East Carroll
Avoyelles
West Baton
Rouge

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When is a Little Really Enough?

- North Carolina

Roberson

Carteret

Durham

Warren

Edgecombe

Seven Areas to Consider

- I. The Art of War: “Know your Enemy
- II. The Whistle has Blown – You Need 90 Seconds on the Clock
- III. Is Your Emergency Response Team in Place (ERT)
- IV. Is Your Go-Team prepared
 - A. Local Counsel
- V. Preservation of Evidence
- VI. Remember the Human Touch
- VII. Identify Risk Exposure and Transfer Opportunities

PREMISES BASED LIABILITY LOSS CONTAINMENT

- I. Identify Your Potential Catastrophic Claims By Venue
- II. Work with your Loss Prevention Department to Increase Store Awareness
- III. Identify Your Claim Goals and Cost Containment
 - Claim Resolution vs. Litigation Expense vs. Trial vs. Appeal
- IV. Documenting and Preserving Evidence (Third Party Intervention):
 - Secure Appropriate Video surveillance
 - Store Employee Interviews
 - Witness Interview
- V. Do Not Discount Human Touch

TRANSPORTATION CLAIM LOSS CONTAINMENT

- I. Develop your Emergency Response Team & Plan (ERT)
- II. Is Your Team Ready to Respond (Preservation of Evidence)
 - Prearranged Relationships with Investigators & Experts
 - National Investigation Firms
 - Regional/local accident reconstruction teams
 - Regional/local property loss adjustment teams

TRANSPORTATION CLAIMS EMERGENCY RESPONSE

III. Prearranged Relationship with Attorneys

- Immediate
- Response At the Scene
- Attachment of Privilege
- Evidence Preservation
- Local contacts and assessment
- <http://web.uslaw.org/resources/rapid-response/>

TRANSPORTATION CLAIMS EMERGENCY RESPONSE

IV. Record Retention/Spoliation of Evidence

- Stop electronic mail, text messages, daily planner notes and internal written reports
- ERT **IS** the ordinary business practice
- Do not perpetuate bad evidence
- Secure necessary maintenance records, contractual documents sales records, etc.. Etc..

V. Do not Forget the Human Touch

- Driver/employee
- Victims

The Golden Rules

- Emotions Replace Logic: “The Blame Game”
- Justice Will Not Always Prevail
- Not Loss Replacement but Wealth Redistribution
- Remember Who is on Trial
- Are you Prepared to Go the Distance
- Is Your File Prepared to Go the Distance
- Know the Rules of the Game

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