

## Retail Safety Hints: The proof is in the video replay...

The Patriots won the Super Bowl because they had more Angels on the field which was my Expert observation. As an Expert Witness for Retail liability case, assisting Liability Attorney's across the country, I have trained my eye to observe. So what did I take away from the Super Bowl?



I learned that things happen fast. Accidents in Stores occur in a flash and in either of the above cases, Video is the best reference to determine the *Who, What, Where, When, and Why*.

**1. Who**-Patriots, **2. What**-Ball is in Edelman's hands, **3. Where**-Ball is not on the ground so it remains alive, therefore ruled a fair catch.

Unlike football, customers do not wear helmets, padding, or other protective devices to keep them from receiving significant injury should they slip, trip, or engage with product while shopping. It is the job of the Expert Witness to evaluate the rules, protocol, procedures of the retailer in which an accident occurred and make an important determination.

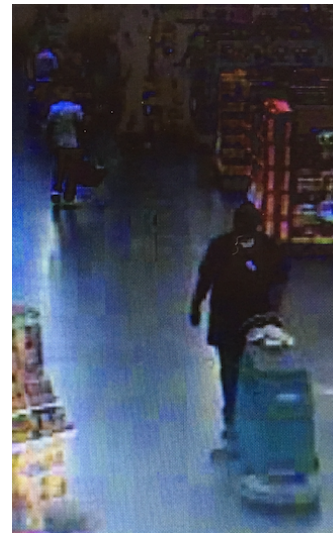
Through the use of reviewing store surveillance video, I have found that the answer is usually obvious. The question being did the retailer take every precaution, within reason, to provide a safe shopping venue for their guest customers. The answer is revealed on video when a customer takes an inappropriate action while shopping or the store allowed a hazardous condition to remain unresolved beyond an industry standard of time.



Where did the liability fall?



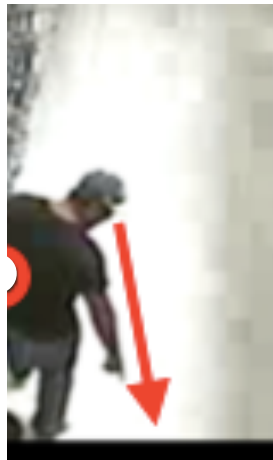
Video Showed



Shopper falls due to a high impact item hitting his cart. Red line is the reference point to watch the reaction of the cart to the impact force. The force was strong enough to turn the cart over, he did not trip but was forced to the ground. Many questions were clearly answered when the video was reviewed.

Slip and Fall was not the fault of the retailer as they followed protocol floor sweeps and patrolling on a regular cycle which the time stamp video confirmed. Inspections are seen on a short interval of time per company rules and regulations showing the retailer did everything within reason to provide a safe and hazard free store.

Video Showed



Over a period of one hour, shoppers on the same camera, in the same reference point, (red outline sign) all looking and pointing down to the reported liquid on the floor. Store had protocol and procedures in place requiring the staff to inspect the floor within a 25 minute period of time. No staff members were viewed cleaning floor, closing off aisle, for over an hour. Breakdown in policy puts the blame clearly onto the retailer thanks to the video and time stamp to verify staff preventive inspection was not performed.

It is very important when offering an opinion to get it right. The outcome of a bad decision or opinion could sway a jury in a direction which could take any hope and support away from an injured individual caused by no fault of their own. On the other side, a small business retailer could be forced out of business due to a large award by the court due to their decision based on negligence for not providing a safe shopping venue.

It is my opinion that upper management at store level should review video often to confirm that employees are following well documented training manuals and procedures at all times. Training is on going, store staff have many responsibilities and often product becomes the priority and safety is ignored. The store staff should not consider this process as a negative practice; but consider it a means to insure customer safety as the company dictates on a 24/7 basis. Seeing is believing and you have to sell a lot of product to offset a \$50,000 law suit. So look to the replay to make the right call to save a person from major injury to themselves.

Jerry Birnbach F.I.S.P., Assoc.A.I.A. is the Owner of the Retail Design Firm of Jerry Birnbach LLC. a top 40 Industry Design Firm. A thirty-five year active member of the Retail Industry, now serves as an Expert Witness for Retail and Public Assembly issues. With over sixty-five cases addressing Slip and Fall, Trip and Fall, Product related matters and Display malfunction was selected by Corporate Magazine as Retail Expert Witness of the Year for 2016.