

# Preservation of Evidence.



## JUST THE FACTS, PLEASE

When an accident occurs, the first response should be to the injured party. Once the situation has been stabilized, a member of the management team should be responsible for documenting the accident and the injured person's information. It is equally as important to document and preserve any evidence that might be available.

Documentation and preservation of evidence is extremely important to combat nuisance cases and to fairly respond to those individuals who have been injured.

## WHAT IF AN ACCIDENT OCCURS?

1. Preserve any and all evidence as it relates to the situation in question.
  - Evidence may be any data, documents or objects that may have a relationship to the cause of the accident in question.
  - Evidence should be tagged and maintained by management in a secure place.
  - The tag should have information such as the date and time of the accident, the customer's name, a claim number (once it has been provided) along with any other pertinent facts.
2. Photographs of an accident scene are crucial. These photos should be taken as soon after the accident as possible and held in a secure place. Photographs should be taken of:
  - The sight of the accident. For example, take photographs of the floor to document whether there was liquid on the floor or the floor was clean.
  - Broken chair or highchair.
  - Scrapes or bruises to an injured person's arm or leg.
  - Wet or soiled clothing.
  - All foreign objects found in food.
  - The sample of food that contained the foreign object.
  - Wet floor or caution signs posted around a spill or damp floor.

It is also important to provide a reference point in the photographs. The preferred reference type would be a ruler or yard stick. It is critical to document and preserve evidence when an accident occurs.





## WHAT WOULD YOU DO?—QUESTION 1

A child is injured as a result of a highchair that malfunctioned. What would you do with the highchair?

- A. Destroy the highchair before throwing it in the trash.
- B. Lock the chair in a secure location so that no one can use it.
- C. Test the chair, and if sturdy, place it back in the dining room.

### ANSWER—B

After photographing the chair at the accident scene, the highchair must be preserved and kept in its original state at the time of the accident. You should keep the chair secured until you receive information from either the insurance carrier or defense attorney. They will instruct you if it is safe to put the highchair back in the dining room or whether it must be discarded.

## WHAT WOULD YOU DO?—QUESTION 2

A customer reports that a foreign object was found in his hamburger, causing a tooth to fracture. What do you do?

- A. Pick out the foreign object, wrap it in paper, and store it in the freezer.
- B. Throw out the food and give the guest a new meal.
- C. Preserve the food by wrapping and storing it in the freezer along with the foreign object.

### ANSWER—C

It is very important to secure and preserve the evidence, including the food as well as the object. This can be done by wrapping the food and storing it in the freezer.

It is a good idea to label the contents with as much pertinent information as possible. The information should include guest's name, date, time, claim number and other pertinent information.

## WHAT WOULD YOU DO?—QUESTION 3

A fire occurs in the kitchen of the store. This was started by a malfunction in the fryer. What do you do?

- A. Leave the area undisturbed until the insurance company tells you otherwise.
- B. Clean up as much as possible after the fire is extinguished and the area is safe.
- C. Move things around so that you can take a better photo of the damage.

### ANSWER—A

It is extremely important to leave the scene undisturbed until it is determined by the insurance company that it is safe to move or discard any damaged equipment or property.

Please be aware that discarding or altering evidence is forbidden. In several venues, the Owner/Operator may be exposed to an independent cause of action if it is proven that evidence was altered or discarded. This means that a separate suit can be brought against a party guilty of evidence tampering or disposal.

