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## Why Reading the Safety Guide is Fundamental to Keeping Stores Accident Free

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Jerry Birnbach

There are a lot of challenges that American retailers face these days. E-commerce continues to rise in popularity. Many stores struggle keeping up with rising rents and real estate costs. There's another challenge impacting their bottom line—safety-related lawsuits. This is incredibly frustrating because it is completely preventable if only store-level employees would stick to the rules.

Retailers produce important documentation such as employee handbooks, merchandising guides, and safety manuals to ensure all known, preventable accidents and issues are communicated to every employee hired to represent the brand. They are developed with care to clearly state procedures and protocols should something arise as well as the types of

safety issues to be on the lookout for.

Depending on the retail store, some guidelines may be broad strokes in best practices and common sense. Other stores, where heavy machinery or other potential hazards are nearby, will go into greater detail with hopes that managers will train staff well. At the end of the day, it's all to put in place to establish rules around what the law expects from retailers and the ramifications of what could happen if they are ignored.

Form follows function is a golden rule for designing a store. The function today is established by ADA regulations that clearly addresses aisle widths, alignment of gondola runs, elimination of obstructions, and customer access to product without straining themselves. Once the store layout meets these defined functions, the form of displays and aisles are established to address the needs of the product offering, branding strategy, and other considerations.

### **The "Cliff Notes" Version Is not Cutting It**

You remember the old "Cliff Notes" shortcut in high school where you didn't feel like reading *Catcher in the Rye* so you read this instead only to be caught when the teacher asked you to recollect a detail that was in the full novel and not the synopsis? The result was a not-so-serious C or D. But in the case of missing details with retail store safety, the ending is much more severe.

In over two-hundred liability retail cases I've investigated as an expert witness, there are two common denominators. Every single one of these cases was preventable had staff stuck to the rules and if merchandisers did not use aisle space for sales after the store had already received a certificate of occupancy based on a fixture plan approved by the local building department.

A majority of the plaintiff's deposition reviews reveal that the store's display protruded over an approved layout by the building department that then created hazards throughout the store. That's such a basic thing to be mindful of. Corporate guidelines are very clear with the following directives:

- Do not to exceed a product presentation over the display base line into the aisle
- Do not to locate vendor displays or promotional displays into aisles at minimum ADA width
- Do not to place pallets in the aisle without correctly loading the product to a 36-inch height and product loaded out to within an inch of the perimeter of the pallet
- Do not use makeshift tables, boxes, carts, as displays that could cause a trip in already minimal aisle width and high traffic areas

While those basic regulations seem common sense to avoid violating, it continues to show up in case after case and always because someone thought boosting the volume and profit for the store with temporary displays was more important. Or maybe the rationale is that the dollars per square foot advantage for the store outweighs the risk that the hazardous display condition can impact a customer's safety. In cases where store staff discovers hazards, the employees are encouraged by the guidelines to report it to upper management and resolve the issue as quickly as possible.

Unfortunately, most depositions reveal that the store staff did not realize that a condition was hazardous until someone was injured. Of course, nobody wants their customers to leave in an ambulance. In many of the cases where I represented the retailer, it was discovered that proper inspection and staff training was logged and executed, demonstrating they did put in the effort to provide a hazard-free venue. But at the end of the day, some of the most horrible impact on customers resulted in broken bones, scared face, quadriplegic, and loss of sight for kids through senior citizens.

So, who should be more vigilant in order to ensure a safe shopping experience?

**Display Manufacturer.** Surprised? All too often the display manufacturer winds up between a rock and a hard place. Vendors supplying displays for free to the retailer try to keep costs to a minimum. In the design phase the vendor suggests eliminating the 4-inch high base to save 40 dollars a display. If the display is going to 1,000 stores, that is a \$40,000 savings. What is not considered is the display without a base could catch a foot, will not keep a shopping cart away from the product, and other major considerations that will impact the display's safety factor. It is at this time that a line needs to be drawn in the sand by having the display manufacturer explain the safety ramifications and refuse to make that modification. Several liability cases reviewed had the display manufacturer included in the lawsuit claim due to lack of safety compliance.

**Corporate Retailer.** Corporate executives need to be clear in enforcing that any variations to the planogram is not safe or an acceptable practice. Define lines of demarcation in all stores via the floor plan that restricts any display (permanent or temporary) allowed in that area. Planograms must be clear in defining the display type, product levels, display components and their location, as well as signs for pricing and safety, such as "ask for assistance" for heavy, large, or high-shelf location of product.

**Store Staff.** All store employees must participate in proper training methods, refresh training yearly, learn to discover hazards, question any concerns with upper management, and cure the hazard immediately. There is a vast amount of safety procedures expected of the staff. It is essential for upper management to supervise staff to be sure they are providing this review, throughout the day, as regulated by the store safety manual regulation. Retail staff need to know that reminding an upper management staff member that a display is misplaced will not lead to termination.

If we all recognize that this epidemic is a result of not being part of the solution and by taking a more active role in making the store safe, a great service for retailers and customers will have been served.

**An Ounce Of Prevention Is Worth A Pound Of Cure**