

COURT OF PUBLIC OPINION POINTS FINGER AT WENDY'S

PART I: BACKGROUND

On Tuesday, March 22, it is “business-as-usual”¹ for the Wendy’s located on 1405 Monterey Road in San Jose, California. A forty-ish looking woman with curly black hair orders a cup of chili, and takes a seat to enjoy her dinner. A few minutes later, she jumps up screaming and runs to the bathroom. She emerges, and proclaims loudly that she has just found a human finger in her food.

On Wednesday, March 23, it is again “business-as-usual” for the Wendy’s located on 1405 Monterey Road in San Jose, California. Gary Grant, a customer of the Monterey Road restaurant, is disappointed. “We come here all the time,” Grant said. “We just ate here today, and nobody said a thing. There were no signs up. How can you trust somebody like that? You're still serving food. Which basically means you don't care.”²

Fernando Anaya, another Wendy’s customer, was a bit more optimistic. He orders a salad, joking, “Where's the finger at?”³ In the following weeks, the “Chili Crisis” unfolded to a court of public opinion.

“#\$&!”

First, health officials hastened to assure the public that “the finger had been cooked at a high enough temperature to kill any viruses, including hepatitis or HIV, and that it”⁴ is very unlikely the victim would suffer physical health effects from the contamination. Baseline viral testing was recommended for the victim, but only to provide for comparison if a food-borne illness arose.⁵

After the initial shock, a crazed media began to take on the Chili Crisis case. “Woman Bites Off More Than She Can Chew,” read the Montreal Gazette, and “Finger Food Leaves Diner with Really Bad Taste; Chili Had To Much of A

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Human Touch," proclaimed the Salt Lake Tribune.⁶

Officials checked Wendy's employees and all the factories that the chili came from to try and locate the owner of the missing finger. All employees passed a visual inspection, and within days the parent company Wendy's was able to say that the finger did not come from within – it had to have come from an outside source.

But It's Not Just Wendy's!

Other companies have also had to deal with consumer tampering. In 1987 two California men carved a finger out of tripe, and claimed they 'found' it in their can of Juanita's Menudo soup.⁷ In 2000 it was the "Chicken McNoggin." A woman from Virginia claimed she found a fried chicken head in her box of chicken wings from McDonalds. She immediately contacted the media and "lawyered up." Although reporters said it looked like it had been fried with the other wings, the woman refused to give up the chicken head for examination.⁸

There was the "Clam Condom" found in seafood at McCormick and Schmick's seafood restaurant in Irvine, CA; and the dead mouse found in vegetable soup at the Cracker Barrel. Cracker Barrel had an autopsy performed to discover that the mouse had died from skull fracture, not from drowning. The woman was arrested and Cracker Barrel moved on.⁹

Food tampering is nothing new. So why did the Chili Finger consume the media for months? The "Clam Condom" had hardly made headlines. Where did Wendy's go wrong? Other companies have dealt with and recovered from product tampering without having to lay off any employees.

In this case, the blame rests entirely on an external party.

Why This Case Matters – A Fast Look at Fast Food

The chili crisis is interesting from a manager's perspective because it involves factors that are out of a manager's control. Nothing Wendy's could have done internally would have prevented an external factor like Ayala from tampering with her Wendy's product.

What should Wendy's have done to assure the public that every course of appropriate action had been taken; and that the entire incident was a hoax? Perhaps most importantly, what actions should management take to handle an unforeseen crisis?

For corporate decision makers, examinations of the above questions will shed light on how to optimize crisis management decision-making when confronted by unexpected external threats so as to communicate with the public in effective and ethical manners.

Part II: UNWRAPPING THE CRISIS

“Where’d that sucker come from?”

The finger came from a man named Brian Rossiter.

On December 20, 2004 Placencia approached Rossiter, a co-worker at Lamp Asphalt, who owed him \$50 in gambling debt.

The two men discussed the finger that Rossiter had recently lost in an industrial accident, and it was agreed that Placencia would forgive the debt if Rossiter forked over the finger.

Three months later, Ayala put the finger in her chili and hired a lawyer to sue Wendy's. What followed was a very closely watched public crisis for Wendy's management, employees and customers alike.

What Once Was, Is No Longer

Corporate culture and history can be described as “feelings, underlying beliefs, values, history, and assumptions about an organization.”¹⁰ These traits take root in experiences, stories, and behavior patterns. Culture is difficult to develop or change, and is important because it “tells people what is and is not okay.”¹¹

Dave Thomas, Wendy's founder, recognized the need for culture. He “dreamed of building a place where families would come together to enjoy delicious meals in a comfortable and friendly environment.”¹² He wanted to run the best restaurant in the world. He believed that honesty, quality, and integrity would help him achieve his dream. He believed in this so strongly that he made “Quality is Our Recipe” a permanent part of the Wendy's logo.¹³

Thomas urged others to “do the right thing,” and live life with honesty and integrity. Personal integrity, he used to say, was the most important value a person could have.

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Thomas became Wendy's spokesman, and Americans quickly came to love him for his down-to-earth, homey style.¹⁴ Over 800 commercials later, Thomas was one of the nation's most recognizable spokesmen. "Because of his honesty and old-fashioned values, Dave emerged from Wendy's advertising campaign as an American folk hero."¹⁵

Wendy's President and CEO Jack Schuessler said, "Dave kept reminding us that he was just a hamburger cook." This behind-the-scenes modesty and family oriented atmosphere kept Wendy's at the top, with employees who cared and customers to cater to.¹⁶ Thomas passed away in 2002, but his legacy lived on.

Two years later, that same legacy and image of quality and sterile reputation was questioned overnight. Just hours after Ayala's claim, the No. 3 burger chain in the country¹⁷ became the laughingstock of newspapers and late night TV shows as their consumers stopped eating at Wendy's in disgust.

Threat Assessment

Behind the Scenes

Unable to deal with the drop in business, Wendy's began to lay off their employees. Wendy's spokesman Denny Lynch said that employee hours and wages were cut as stock and sales slumped because of the publicity from the event. The impact it had on sales caused the decrease in employee hours. "It has been devastating. The impact in sales has been significant," he said of the layoffs.¹⁸

In the Hands of a Critical Public

Wendy's had no previous experience in crisis management. As a company able to boast a solid and reputable background, consumers had flocked to the restaurant with no prior problems. This consistent, reliable, and reputable organization had no idea how to handle the situation they found themselves in.

"They completely lost sight of the actual crisis," Crisis Manager Steven Fink said. "This is a common mistake for companies inexperienced in crisis management. The finger in the chili was not the keystone crisis: it was an event that caused a massive crisis of confidence in the public's mind having to do with the safety and cleanliness and quality of Wendy's food. In short: A crisis of perception. This is why sales plummeted by a reported 50 percent. At no time did the company take any proactive steps to assure customers that it was safe to eat at Wendy's, nor did it offer up any outside food or health experts to speak to the news media on its behalf."¹⁹

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With no crisis management plan in place in advance, Wendy's was forced to try and muster up an off-the-cuff strategy to combat the crisis.²⁰

Key Players in the Conflict

[See Appendixes I and II]

Although Ayala initiated the crisis, there are others who played significant roles in the aftermath of the incident. James Placencia, her husband, got the finger from Brian Rossiter, who lost the finger in an industrial accident at Lamp Asphalt, where the two men worked.

CEO Jack Schuessler was the main line of communication during the incident between the company and the public. Other members of Wendy's were not seen by the public during the crisis.

Of all internal and external players, Anna Ayala and James Placencia were the two main figures associated with the crisis.

Consumers

Anna Ayala and James Placencia

Both Anna Ayala and James Placencia have had previous run-ins with the law. Ayala has a history of numerous extortion schemes gone awry, and Placencia was a "deadbeat dad" behind on his bills and was wanted for owed child support.

Court, Lawsuits...

Wendy's did not file a lawsuit against Placencia and Ayala; nor did any other external rights' or consumers groups. San Jose law enforcement took the responsibility of prosecution, as that is where the incident occurred.

Bob Parsons of Hot Points – A blog by Bob Parsons wrote on Sunday, April 24, 2005 that "Ms. Ayala's false claim brought many copycats out of the woodwork...It seems that Ms. Ayala's stunt inspired no less than 20 others...to file copycat claims against Wendy's. Keep in mind that there are usually no claims of this nature filed against the chain."²¹ No record could be found pertaining to what became of the claims.

Although many blogs and stories surfaced on the Internet's search engines, other than the individual copycat lawsuits, there is no record of any general consumer groups that attempted legal action.

COUNT 'EM ON ONE HAND...Wendy's Troops

March 23, 2005, the day after the crisis began, CBS, USA Today and numerous other news organizations had flooded the media with headlines like "Human Finger Found in Fast Food Chili" and "Sales drop at Wendy's." By the end of March, it was "Woman Files Lawsuit Over Finger in Chili." In early April, speculation of who the finger belonged to had taken over, and Ayala was accused of planting the finger. She began to appear in court the first week of May 2005; by May 14, 2005 ABC declared, "Police Solve Case of Missing Finger," and CBS announced "Wendy's Off Hook in Finger Case."

This synopsis of media events was perceived and handled differently by two other publics - Wendy's and the legal side of the crisis.

[See Appendix III for a detailed timeline followed headlines and events pertinent to the case.]

Further discussion of players and publics can be found below.

Public Relations

"It seemed to take the Wendy's PR machine forever to gear up,"²² said Doug Albertson, principal of Albertson Consulting Group and an Adjunct Marketing Instructor at the University of Portland in Portland, Oregon.

First, Wendy's investigated the franchise that dished out the chili. Then it investigated the surrounding franchises. Then it inspected the data logs and time sheets of all the Wendy's in America. "Then they spent countless, precious, agonizing days trying to figure out if the finger had been cooked (for some reason). All the while, Wendy's was virtually silent."²³

Legal

When asked, "What will you do about the woman in question?"²⁴ Wendy's CEO Jack Schuessler explains, "It's not we who are going to prosecute; it's going to be San Jose (Calif.). So we'll let the courts take over and let American justice take place."²⁵

Marketing

The marketing committee has not been reviewed by external publics or media.

Consequence of the Conflict

Media coverage of the publics' opinion of the incident was not favorable. Clever headlines, such as "Woman Bites Off More Than She Can Chew"²⁶ and "Wendy's 'Finger' Has Chili Effect On Sales"²⁷ hit newspaper stands the morning after, and bloggers took their frustrations online. The majority did not seem to be

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hankered with Wendy's – but rather, annoyed with Ayala.

The online population seemed to agree that there should be consequences for Ayala and Placencia. "Society will punish her, but they need some idea of the magnitude of the crime,"²⁸ read one blog. Another posted "I have heard of giving the finger! But this is ridiculous... This brings on an entirely different connotation!"²⁹ Such blithe comments suggest the public came to realize that it was not the fault of the franchise.

On the other hand, and even with such knowledge, some consumers were not entirely convinced to eat out – or eat chili at all. "Well, no more Wendy's for me anymore... you've successfully killed my desire ever to go there again...whoever said ignorance is bliss was really on to something."³⁰

The media jumped over the story of a human finger in a consumer's food, which led consumers to balk at the idea of a foreign object in food they trusted to be safe to eat.

As early as the day after the chili crisis, many loyal patrons continued to support the Wendy's where Ayala made her claim. Tom McCready, a regular Wendy's customer, continued to order chili (and a baked potato with chili on it) from the San Jose chain where the incident occurred. He figured, "If they've got 10 fingers, it's OK with me."³¹ He always thought that Ayala's claim was "a crock" and made sure he and his wife frequented Wendy's more often to order chili and show their support.³² Others weren't so sure. "I love Wendy's chili," posted Danielle on a blog TalkLeft: the politics of crime, "But I haven't [eaten any] since the story ran. Weak me."³³

PART III: IMPLICATIONS

After the crisis has been dealt with and consumers appeased, Wendy's management has the opportunity to review the crisis handling so as to gain more experience in crisis and conflict management.

This case highlights that both internal and external factors interact with each other in a public crisis such as the chili finger case. Another look at the challenges in corporate crisis can assist other corporations in the handling of a company crisis.

Companies should learn from this case that, if innocent, they should take a firm stand in defending themselves and have unbiased, unrelated third parties take a stand in defending them and speaking to the public on the company's behalf. Solid defense covers all bases – including background of the company and its goodwill with its publics and addresses how these publics may be left feeling after a crisis of any sort occurs.

It is important to have someone skilled in crisis management on board any Public Relations or Human Resources Team. Outlines and plans for how to handle a crisis that can occur should be drawn up, reviewed often, and discussed in depth in advance, so a company is not left floundering if such a crisis were to occur.

Honesty and straightforwardness are always the only best policies. The public isn't stupid: they know when a company is trying to 'dupe' them. They will also be able to tell if a company is dancing around the issue. If a company is innocent, say so and have professionals back up the claim of innocence. Declare that the company has been wronged, and prove it. Recognize that the crisis itself has passed, a there is a new crisis of image control and recovery that needs to be addressed.

It is never good policy to underestimate the public and the power that it holds. Companies are only around because the public patrons them; and it will do any manager or director well to realize it.

If a company has done wrong, they need to admit it, rectify it, and move on. Although some mistakes are more serious and hold greater ramifications, the public will know if a scandal is being covered up. Often a company can bounce

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back and redeem itself (sometimes even with greater profits) by admitting its mistake, taking steps to fix it, then moving on.

With technology and accessibility of publics rapidly advancing, companies in today's day and age face unique challenges as they never have before. Companies must plan, research, and be aware of what is happening in the world. Only then will they be able to handle crisis with grace and recover in a timely and effective manner.

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Appendix III

**Note: All dates correspond to the source provided. Sources were selected on a basis of variety, accuracy, and objectivity.*

Timeline			
<u>2005</u>	<u>Media Reaction</u>	<u>Wendy's Reaction</u>	<u>Legal Issues</u>
December 20, 2004: Placencia obtains Rossiter's finger to clear a \$50 gambling debt - <i>San Francisco Chronicle</i>			
22-Mar	Anna Ayala claims she bit into finger <i>NNDP</i>	"We haven't found anything to support allegations Wendy's or our supply chain were the source of the object in question" - Bob Bertini <i>USA Today</i>	
23-Mar	Human Finger Found in Fast Food Chili <i>CBS News</i>		
25-Mar		"Wendy's is confident the finger did not come from one of its suppliers because of product coding that allows the company to trace where a product comes from, the day it was produced, when it was shipped and when it arrived at the restaurant" - Denny Lynch <i>USA Today</i>	
25-Mar	Sales drop at Wendy's <i>USA Today</i>		
28-Mar	Woman Files Lawsuit Over Finger in Chili <i>CBS News</i>		

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2005	Media Reaction	Wendy's Reaction	Legal Issues
7-Apr	Finger Could Belong to Dead Aunt <i>San Francisco Chronicle</i>		
13-Apr	"Chili Finger" Woman Drops Case - "...this has caused her great emotional distress." Rich Ehler <i>KVOA Tucson News</i>		
14-Apr	Police Visit Home of Woman In Finger Case <i>San Jose, California Timeline</i>		
21-Apr	Woman Who Found Finger Arrested / Wendy's Tries to Win Back Customers <i>CBS News</i>		US arrest over chili finger case (suspicion of attempted grand theft / grand larceny) <i>BBC News</i>
22-Apr	Police Say Report is Case of Hoax and Fraud <i>San Jose</i>		
24-Apr	Witnesses Say Woman Planned Incident <i>ABC News</i>		
			Ayala's in-laws home raided <i>Sfgate.com</i>
28-Apr	Cops deny raid tied to finger case <i>Sfgate.com</i>		
4-May			Police get tip about man losing finger in accident <i>USA Today</i>

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2005	<u>Media Reaction</u>	<u>Wendy's Reaction</u>	<u>Legal Issues</u>
4-May			Placencia arrested at Lamb Asphalt <i>Central Valley Online</i>
			Ayala and Placencia in Santa Clara County jail. Ayala has a \$500,000 bail and Placencia a \$450,000 bail. <i>DefenseSupplier.com</i>
9-May	Ayala's First Appearance in Court <i>San Jose Timeline</i>		
10-May		Free Frosty Giveaway Friday through Sunday "Our customers stood by us and now we are showing our appreciation." <i>Tom Mueller</i>	
10-May		<i>CNN Money</i> predicts that approximately 14 million free frosty's would be given away.	
14-May	Police Solve Case of Missing Finger <i>ABC News</i>		Police confirm finger was Rossiter's <i>San Francisco Chronicle</i>
14-May	Wendy's Off Hook in Finger Case <i>CBS News</i>		
18-May	Ayala - New Charges Added Conspiracy to Theft <i>Central Valley Online</i>		

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2005	<u>Media Reaction</u>	<u>Wendy's Reaction</u>	<u>Legal Issues</u>
19-May	Husband of Finger Suspect Extradited <i>MSNBC</i>		
20-May	Placencia - First Court Appearance <i>San Jose Timeline</i>		
25-May			Conspiracy charges filed <i>Science Daily</i>
3-Jun	Finger Case Back to Court - Mayor Gonzales to Have Lunch With Owner of Wendy's Restaurant <i>San Jose Timeline</i>		
29-Jun	Couple Delays Plea - Defense Wants More Time to Examine Evidence <i>Associated Press</i>		
28-Jul	Defense Gets More Time To Prepare <i>San Jose Timeline</i>		
18-Aug	Chili Finger Couple Expected To Enter Plea <i>CBS News</i>		
25-Aug	Possible Plea Agreement in Finger Case <i>San Jose Timeline</i>		9:30a.m. Ehler tells Nadler that it's a not guilty plea - spoke to lawyers - done by 11a.m. <i>Mercury News</i>

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2005	<u>Media Reaction</u>	<u>Wendy's Reaction</u>	<u>Legal Issues</u>
Thurs 25-Aug			Judge Jerome Nadler (who oversaw early legal motions) assigned case to Davila to see if it could be resolved before trial. <i>Mercury News</i>
25-Aug			"Prosecutors and defense met privately with a judge Thursday morning in an apparent effort to reach a plea arrangement. But none was produced." The talks stopped because they had other obligations, DA considers next move. <i>Mercury News</i>
26-Aug			Prosecutors and defense meet with Davila at 10a.m. <i>Mercury News</i>
9-Sep	Couple Pleads Guilty to All Charges in Finger Chili Scam <i>CBS News</i>		Both Plead Guilty to conspiring to plant finger <i>Wikinews</i>
21-Sep	Casey complains Wendy's is to slow with reward money <i>United Press International</i>	Lynch says Wendy's is sorting through the tip line to make sure the right person gets the reward money <i>United Press International</i>	
27-Sep	Wendy's - Two To Share Chili Finger Reward <i>CBS News</i>	Wendy's awarded Mike Casey and anonymous person \$100,000 for the tip leading to the owner of the finger <i>CBS News</i>	

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<u>2005</u>	<u>Media Reaction</u>	<u>Wendy's Reaction</u>	<u>Legal Issues</u>
2-Nov			Sentencing - Ayala up to 10 years in prison, Placencia up to 13 (he had other deadbeat dad charges) <i>United Press International</i>

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Endnotes

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