

# What Happens When Surveillance Is Used Against An Injury Victim In Georgia?

## How Defense Video Gets Used In Discovery, Depositions, And Damages Fights

A serious injury claim can start to feel upside down once surveillance enters the case. The injured person is living through the full reality of pain, treatment, flare-ups, missed work, and the uneven rhythm of recovery.

The defense, meanwhile, may try to shrink that reality into a short clip that looks neat, simple, and damaging. A few minutes of video can become an argument that the victim isn't hurt as badly as claimed, isn't being honest, or shouldn't recover the compensation the case demands.

At the Law Offices of Gary Martin Hays & Associates, P.C., our [Georgia personal injury lawyers](#) know this issue is different from social media. [Social media](#) usually involves something the injured person chose to post.

Surveillance is different. It's often footage gathered by an investigator or pulled from a third party, then used in discovery, depositions, settlement talks, or trial to challenge credibility and damages.

Georgia's discovery rules are broad enough to reach relevant, nonprivileged recordings, photographs, and other tangible evidence, including materials in a party's possession, custody, or control.

## Where Does Surveillance Usually Come From In A Georgia Injury Case?

Most people picture a private investigator parked down the street with a camera. Sometimes that's exactly what happens. But in real litigation, surveillance can come from more than one direction, and that's part of what makes it so important to address early.

A defense lawyer may rely on footage from a hired investigator, but the defense may also try to obtain video from a store, parking lot, apartment complex, office building, or other nonparty source through Georgia's discovery process.

Georgia law allows requests for production of designated documents, photographs, recordings, and tangible things, and it also extends document discovery to nonparties in certain situations.

That matters because a jury may hear the word "video" and assume they're looking at something objective and complete. Most of the time, they aren't.

A camera angle can be narrow. A clip can be short. The footage may show motion without showing pain, medication, recovery time afterward, or what the person had to do to get through that moment.

Here's how surveillance usually gets used once it enters the case:

- **Private Investigator Footage:** A defense investigator may record the injured person in public, hoping to capture walking, lifting, bending, driving, or carrying something that appears inconsistent with the claim.
- **Business Or Property Camera Footage:** A store, gas station, apartment complex, or office building may have video that the defense tries to use to suggest the injured person looked normal or moved more freely than expected.
- **Deposition Comparison Material:** The defense may question the plaintiff in detail about physical limits, then compare those answers to later-produced video in an effort to create a contradiction.
- **Settlement Pressure Evidence:** Even before a judge rules on admissibility, the defense may use surveillance as leverage by arguing that a jury will focus on the clip instead of the broader medical record.

That's why surveillance isn't just a trial problem. It can shape the case months earlier than most injured people expect.

## Can The Defense Keep Surveillance Hidden Until The End?

Not automatically, and that's where the litigation mechanics become important.

Georgia's Civil Practice Act allows broad discovery of relevant, nonprivileged matter, and that can include recordings and other tangible things related to the claims and defenses in the case.

In [\*Orr v. Macy's Retail Holdings, Inc.\*](#), a federal court in Georgia ordered production of raw surveillance footage, photographs, and audio rather than letting the defense hold all of it back as pure impeachment material.

The court reasoned that the footage crossed the line from mere impeachment into substantive evidence because it was being used to challenge the plaintiff's claimed injuries and limitations.

That doesn't mean every surveillance fight ends the same way, and state and federal courts can handle discovery disputes differently. But *Orr* is still useful because it shows how these fights actually unfold.

The defense may argue that surveillance should stay hidden to preserve surprise. The plaintiff may argue that the footage affects deposition strategy, medical proof, and trial preparation, so it can't fairly be treated like a trapdoor waiting to open at the last second.

The court in *Orr* also recognized a difference between raw footage and actual protected work product, allowing that true mental impressions or strategy materials may remain protected even if the underlying footage must be produced.

## Why Does Surveillance Hit So Hard During A Deposition?

Because depositions reward precision and punish absolutes.

If an injured person says, “I can’t bend at all,” “I never carry anything,” or “I’m always bedridden after noon,” a short clip may suddenly look devastating even if the overall claim is still legitimate. What often hurts the case isn’t the existence of movement. It’s the gap between overly broad testimony and what the camera seems to show.

That’s one reason the *Orr* court pointed out that a defendant may try to protect the impeachment value of surveillance by taking a video deposition first, carefully questioning the plaintiff about injuries and claimed limitations, and even requiring demonstration of certain movements on videotape before turning over the surveillance materials.

In other words, surveillance often becomes powerful because it’s paired with deposition testimony, not because the clip tells the whole story by itself.

For example, imagine someone with a back injury says they can’t carry groceries. What they may really mean is that carrying groceries triggers pain, can’t be done repeatedly, or comes with a price later that isn’t visible in public.

If the defense later shows 10 seconds of that person carrying two light bags to a car, it may try to turn a messy human reality into a clean contradiction. That’s how a normal, limited activity gets repackaged as an attack on credibility.

### **Does A Short Clip Really Prove The Victim Isn’t Hurt?**

Usually, no. It may prove the victim performed one activity, once, for a short time. That’s not the same thing as proving the person isn’t in pain, doesn’t have restrictions, or can function normally over the course of a full day or workweek.

Georgia evidence law still requires relevance. Relevant evidence is evidence that has any tendency to make a fact of consequence more or less probable. But even relevant evidence can be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusing the issues, or misleading the jury.

That matters in surveillance disputes because a short clip can look bigger than it really is when it’s stripped away from context.

That’s especially true in [pain cases](#), [traumatic brain injury cases](#), and orthopedic injury cases where symptoms rise and fall. Plenty of injured people can push through one moment in public and pay for it later in private. A camera doesn’t capture that second part unless someone works to show it.

### **What Has To Be Proven Before Surveillance Can Be Shown To A Jury?**

A video doesn’t become important just because it exists. The party offering it still has to clear several hurdles before it becomes persuasive evidence.

Here are some of the main issues that usually matter:

- **Relevance:** The footage has to connect to a real issue in the case, such as claimed physical limitations, daily functioning, or damages. If it doesn't move an important fact one way or the other, it shouldn't carry weight.
- **Authentication:** The party offering the video has to show it's what they claim it is. Georgia law requires enough evidence to support a finding that the item is authentic, often through a witness with knowledge or other identifying proof.
- **Reliability Of Unattended Recordings:** If the recording came from a device that wasn't being personally operated at the time, Georgia law still allows admission in certain situations, but the court must determine that the recording reliably shows the facts it's offered to prove, and the date and time have to be shown as contemporaneous with the events depicted.
- **Fairness To The Jury:** Even relevant footage can be challenged if it's likely to mislead the jury or create unfair prejudice that outweighs its actual value. A dramatic clip isn't automatically a fair one.

That's why surveillance fights are rarely just about whether there's a video. They're about what the video really proves, what it leaves out, and whether the defense is trying to make a highlight reel do the work of a full record.

### **How Do Plaintiff's Lawyers Push Back Against Surveillance?**

Good pushback usually has less to do with drama and more to do with detail.

A strong response may focus on what happened before the clip, after the clip, and outside the clip. It may also focus on how the footage was obtained, whether it was complete, and whether the defense is trying to turn isolated activity into a broad claim about function.

Some of the most important questions include:

- **What's Missing From The Recording:** Was the footage edited, shortened, or selected from a much longer period that showed pain, hesitation, or assistance?
- **What Was The Person Doing Before And After:** Did the activity require rest, medication, help from a family member, or days of recovery afterward?
- **How Specific Was The Plaintiff's Testimony:** Did the plaintiff truly make an absolute statement, or is the defense oversimplifying what was actually said?
- **Does The Medical Record Match The Real Story:** Do treating records support fluctuating symptoms, limited endurance, pain with repetition, or post-activity flare-ups that a short clip wouldn't show?
- **Is The Defense Using It For Context Or Theater:** Is the footage really helping the jury understand the facts, or is it being presented in a way that risks unfair prejudice and confusion?

That's where these cases are often won or lost. Surveillance can be powerful, but it usually becomes most dangerous when no one slows it down and makes the jury look at the whole picture.

## **Why Surveillance Often Turns Into A Damages Fight**

Even when liability is clear, surveillance can still affect the value of the case.

A defendant may admit the crash happened and still use video to argue that the plaintiff's pain is overstated, future care isn't as necessary as claimed, [lost earning capacity](#) is too high, or daily limitations aren't as serious as the demand suggests. That's why surveillance doesn't just target whether someone was injured. It often targets how much the injury changed the person's life.

That's also why the defense may lean so hard on a short clip in mediation or settlement talks. They don't necessarily need the footage to win every legal argument. Sometimes they just need enough doubt to push the number down.

## **Georgia Injury Claim Surveillance Questions**

### **Can The Insurance Company Use Surveillance Even If I Never Posted Anything Online?**

Yes. Surveillance and social media are different. A defense team may rely on footage from an investigator or try to obtain recordings from businesses or other third parties through discovery, even if the injured person never posted about the accident online.

### **Does The Defense Have To Turn Over Surveillance Before Trial?**

Not in every case on the same schedule, but surveillance often becomes a discovery issue well before trial. In *Orr*, a Georgia federal court ordered production of raw surveillance materials rather than allowing the defense to hold them back entirely as impeachment evidence.

### **Can A Video Be Kept Out If It's Misleading?**

Potentially, yes. Georgia law allows relevant evidence to be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion, or misleading the jury.

### **What If The Video Shows Me Doing Something I Said Was Difficult?**

That doesn't automatically end the case. The real issue is usually context, including how long the activity lasted, whether it was unusual, whether it caused pain afterward, and whether the defense is exaggerating what the footage actually proves.

### **Does A Lawyer Need To Challenge The Video Itself Or The Story Around It?**

Usually both. The legal challenge may involve relevance, authentication, completeness, and fairness, while the factual challenge focuses on context, medical proof, and whether the clip really matches the plaintiff's day-to-day reality.

## **When The Defense Tries To Turn A Human Injury Into A Highlight Reel**

Surveillance can change the temperature of a case fast. A short clip may look clean and convincing at first glance, especially when the defense wants a jury to believe it has caught the injured person in a contradiction. But a real injury claim isn't lived in 10-second segments. It's lived across bad mornings, cancelled plans, follow-up visits, limited stamina, and the private cost of getting through public moments.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), we know how to slow that process down and make the defense prove what its video actually means. If an insurer or defense lawyer is trying to use surveillance to make your injury look smaller than it is, give us a call or [contact us online](#) for a free consultation. The right response usually isn't panic. It's building the full record, exposing what the clip leaves out, and putting the case back where it belongs, on the truth.