How Georgia's Tort Reform Laws Are Being Used by Insurance Companies Right Now

The Rules Changed. The Insurance Companies Were Ready. Are You?

When Senate Bill 68 was signed into law on April 21, 2025, the insurance industry didn't need time to adjust. Their lobbyists helped write it. Their attorneys had been briefed on it for months. Their adjusters and claims teams knew exactly what it meant before the ink was dry on the Governor's signature. For Georgia injury victims, the picture looks very different. Most people don't know the law changed at all until they're already in the middle of a claim and wondering why things aren't going the way they expected.

That gap in awareness is not an accident. It works in the insurance industry's favor, and they are exploiting it right now in claims happening across Georgia every single day.

At the Law Offices of Gary Martin Hays & Associates, P.C., we've been representing injured Georgians for more than 30 years. We know how insurance companies operate, and we know how they're using the new tools SB 68 gave them. Georgia families deserve to understand what those tactics look like before they find themselves on the receiving end of them.

The Settlement Offer That Arrives Before You Understand the New Rules

One of the oldest and most effective insurance company tactics is the early lowball settlement offer, and SB 68 has made it more powerful. In the weeks after a serious crash or injury, when a victim is still dealing with medical care, missed work, and the emotional weight of what happened, the insurance adjuster calls with what sounds like a reasonable offer to make things go away quickly.

Before SB 68, injury attorneys regularly advised clients to hold off on early settlements because the full value of a claim, including the full billed amount of medical treatment, was often far higher than the insurance company's opening figure. Under the new phantom damages rule, the defense knows that medical damages are now subject to the lower contracted insurance rate rather than the full billed amount. That means early settlement offers are being calibrated to the new, lower valuation framework, not the old one.

A victim who doesn't know the rules changed may accept an offer that was already calculated with SB 68 working in the insurer's favor, giving up the right to pursue additional compensation later even if their injuries turn out to be more serious than initially understood. Accepting an early settlement almost always means signing a release of all future claims, and there is no taking it back.

How Adjusters Are Using the Seatbelt Rule in Pre-Litigation Negotiations

The seatbelt admissibility change under SB 68 doesn't just matter at trial. Insurance adjusters are using it as a pressure point from the very first phone call. When an adjuster learns that a victim wasn't wearing a seatbelt, that fact is now introduced early and often in settlement conversations, framed as a serious legal liability that damages the victim's case.

The goal is not accuracy. The goal is to make the victim feel exposed and uncertain before they've had a chance to speak with an attorney who can explain what the law actually allows and what defenses are actually available. A victim who believes their case is severely compromised because of a seatbelt is a victim who may accept a fraction of what their claim is worth just to avoid the perceived risk of going to court.

Georgia injury victims should never discuss seatbelt use with an insurance adjuster without legal representation. That conversation has legal consequences under the new law that didn't exist before April 2025.

Using the Discovery Stay to Stall Evidence Gathering

SB 68 also gave defendants a new procedural tool that insurance companies and defense attorneys are using strategically. Under the new law, when a defendant files a motion to dismiss, discovery is automatically stayed, meaning the victim's legal team cannot gather evidence until the court rules on the motion. That stay can last up to 90 days.

For an injury victim, time is almost always the enemy when it comes to evidence. Surveillance footage gets recorded over. Witnesses' memories fade. Vehicle data gets overwritten. Physical evidence deteriorates. A defense team that files a motion to dismiss shortly after a lawsuit is filed, triggering a 90-day discovery freeze, effectively gets nearly three months to let the evidentiary record weaken while the victim's case sits frozen.

This isn't a procedural quirk. It's a calculated strategy. And it's being used in Georgia litigation right now.

Weaponizing the Phantom Damages Rule in Negotiations and at Trial

Insurance companies have seized on the phantom damages rule as one of their most powerful post-SB 68 weapons, and they're deploying it at every stage of a claim. Here is how that typically plays out:

- **In Pre-Litigation Settlement Talks:** The adjuster references the insurance company's contracted rate for the victim's medical treatment as the baseline for valuing the case, arguing that the full billed amount is no longer relevant and that the "reasonable value" of care is whatever the insurer paid.

- **During Litigation Discovery:** The defense requests the victim's health insurance records, explanation of benefits documents, and contracted rate schedules, building a comprehensive picture of exactly how much lower the insurance payments were compared to billed charges.
- **At Trial:** Defense attorneys present the lower insurance payment figures alongside the full billed amounts, explicitly asking jurors to value the medical treatment at or near the discounted rate and arguing that the higher billed amount represents a number that was never actually owed.
- **In Subrogation Claims:** Victims' own health insurers are now pursuing larger shares of any settlement or judgment, further reducing what actually ends up in the victim's hands after a case resolves.

The cumulative effect across all four of these stages is a significant reduction in the value of medical damages compared to what was recoverable before SB 68 took effect.

How Insurance Companies Are Requesting Bifurcation to Isolate Liability From Human Impact

Defense attorneys representing insurance companies are increasingly requesting bifurcated trials in cases where the victim's injuries are severe and emotionally powerful. The reason is straightforward. When a jury decides fault in a phase one trial without ever seeing a victim's wheelchair, hearing about a child growing up without a parent, or learning about months of painful rehabilitation, the emotional weight of the defendant's negligence is absent from the room at the most critical moment.

For example, consider a Georgia truck accident case where a commercial driver ran a stop sign and struck a family vehicle, leaving a parent with a permanent spinal cord injury. In a traditional trial, the jury would hear the full story, including how the driver failed to stop, what the crash did to the victim's body, and how that injury has reshaped the family's entire life.

Under bifurcation, the jury in phase one only hears whether the truck driver ran the stop sign. The devastating human consequences of that choice are withheld until phase two, and the liability determination is made in a clinical vacuum.

Insurance companies know this structure works in their favor. They are requesting bifurcation in serious injury and wrongful death cases regularly, and injury victims need legal teams prepared to win phase one without the emotional anchor that a unified trial would provide.

What Georgia Injury Victims Can Do Right Now

SB 68 gave insurance companies new tools, but it didn't eliminate Georgia's fundamental principle that negligent parties are accountable for the harm they cause. The law changed the battlefield. It didn't change who was responsible for the crash. Here is what Georgia injury victims should do to protect themselves under the new rules:

1. **Don't Accept Early Settlement Offers Without Legal Review:** Any offer made before you have fully understood how SB 68 affects your specific claim should be evaluated by an experienced attorney before you respond.
2. **Say Nothing About Seatbelts to the Insurance Company:** Under the new law, that conversation has direct legal consequences. Let your attorney handle it.
3. **Preserve Every Piece of Evidence Immediately:** Given that discovery stays can freeze a case for up to 90 days after a motion to dismiss, having a complete evidentiary record in place before litigation begins is more important than ever.
4. **Keep Every Medical Bill, Explanation of Benefits, and Receipt:** How your treatment is billed and documented now directly affects what a jury can award, and gaps in the record give the defense room to argue for lower valuations.
5. **Get Legal Representation Before Giving Any Recorded Statement:** Insurance adjusters are trained to gather information under the new legal framework in ways that work against victims. An attorney on your side from the start changes that dynamic entirely.

The insurance industry was ready for SB 68 the day it was signed. The best thing a Georgia injury victim can do is make sure they're ready too.

Georgia's Power Law Firm Has Been Fighting Back Since Day One

The Law Offices of Gary Martin Hays & Associates, P.C. has been fighting for injured Georgians since 1993 and has recovered over $1 billion for Georgia families. We watched SB 68 become law, we studied every provision of it, and we've been building cases under the new framework since the day it took effect. We know how insurance companies are using these tools, and we know how to counter them.

If you were injured in Georgia and you're facing an insurance company that's already applying SB 68 against your claim, contact us today for a free consultation with an experienced Georgia personal injury lawyer. We handle every case on a contingency fee basis, so there are no upfront costs and our fee comes only from the compensation we recover for you.