

Spoliation of Evidence After a Georgia Car Accident

Critical Evidence Can Start Disappearing Long Before a Lawsuit Is Filed

The crash itself takes seconds. The evidence that explains what happened can start getting harder to find almost immediately. A nearby business may routinely overwrite surveillance video. A witness may leave without giving anyone a name or number. A damaged vehicle may be moved or sold before anyone inspects its electronic systems. In a [Georgia car accident](#), early preservation can determine whether fault is proved with objective evidence or argued from incomplete memories months later.

Spoliation is the destruction, alteration, or failure to preserve evidence that is relevant to pending or reasonably anticipated litigation. Georgia courts can respond with sanctions when a party had a duty to preserve evidence and failed to do so, but there isn't an automatic penalty every time evidence goes missing. The timing of the duty, the importance of the evidence, the prejudice caused by its loss, and the circumstances surrounding the loss all matter.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), our Georgia car accident lawyers move quickly when a case involves evidence that may not be available later. That can mean identifying cameras, locating witnesses, preserving a vehicle, and sending targeted preservation notices before routine deletion or disposal makes the proof harder to recover.

When Does a Duty to Preserve Evidence Arise in Georgia?

A preservation duty can arise before a lawsuit is filed. The key question isn't simply whether a crash happened. It's whether litigation was pending or reasonably anticipated and whether the person or company controlling the evidence knew, or reasonably should have known, that the evidence could matter to that dispute.

In [Phillips v. Harmon](#), the Supreme Court of Georgia rejected the idea that a defendant needs an explicit threat of a lawsuit before a preservation duty can arise. The court said notice may be inferred from circumstances such as the type and extent of the injury, how clear fault appears to be, the potential financial exposure, the parties' prior dealings, and how often litigation follows similar events. A serious crash can therefore create a duty before a formal preservation letter arrives, but every minor collision doesn't automatically trigger the same obligation.

Georgia law also recognizes that suppressing relevant evidence can support a rebuttable presumption against the party responsible. [O.C.G.A. § 24-14-22](#) provides that when a party has evidence in its power and does not produce it, the law may presume that the evidence would have been unfavorable. In an actual spoliation dispute, though, the judge still evaluates the circumstances before deciding whether any sanction is appropriate. An adverse inference isn't automatic just because a file, recording, or vehicle is no longer available.

Which Evidence Can Become Harder to Recover After a Georgia Crash?

Different evidence disappears at different speeds. There isn't one universal 24-, 48-, or 72-hour retention rule for every camera, vehicle, or digital record. The right preservation priorities depend on what happened and who controls the information. Common examples include:

- **Traffic and Surveillance Video:** Private businesses, homes, parking facilities, and other locations may use rolling retention schedules or may not save footage unless someone asks. Identifying nearby cameras quickly is often more important than assuming the recording will still exist weeks later.
- **Vehicle Event Data:** Many newer vehicles have event data recorders or related electronic modules that may store crash-related information such as vehicle speed, brake use, accelerator input, seat-belt status, or airbag deployment, depending on the vehicle and system. The available data isn't identical in every car. If the vehicle is sold, salvaged, destroyed, or altered before it can be inspected, access to potentially useful information may be lost.
- **Dashcam Footage:** Dashcams usually record on a loop, so older files can be overwritten as storage fills. Retention depends on the device, settings, and storage capacity. When a driver or witness has a camera, [dashcam footage can become critical evidence after a Georgia car accident](#) and should be copied before the relevant file is lost.
- **Cell Phone and Digital Records:** When [distracted driving](#) is suspected, useful evidence may exist on the device, in carrier records, or with an app or platform. Those sources don't keep the same information for the same length of time, and device contents, call or text metadata, location information, and app records may require different preservation steps and legal process.

The [police accident report](#) is different because it usually remains available through official channels, but it's still only a starting point. A report may include driver and witness statements, a diagram, citations, and the responding officer's initial observations. Video, vehicle data, photographs, and other evidence can confirm, add context to, or contradict those early accounts.

What Does a Preservation Letter Actually Do?

A preservation letter, sometimes called a spoliation letter or litigation-hold notice, is written notice identifying evidence that should be preserved because litigation is anticipated. It can be sent before a lawsuit is filed and should be tailored to the evidence that may actually matter in the specific crash rather than asking for every conceivable record.

Depending on the facts, our Georgia car accident lawyers may send preservation notices to:

- **The At-Fault Driver and Insurer:** Requesting preservation of the vehicle, available dashcam files, photographs, recorded statements, and other relevant evidence within their possession or control. The exact request should match what each recipient actually controls.
- **Businesses or Property Owners Near the Crash Scene:** Requesting preservation of surveillance video that may show the collision, traffic conditions, a signal cycle, vehicle movements, or events immediately before or after impact.

- **Phone, App, or Other Digital Custodians:** When phone use is genuinely at issue, different notices or legal process may be needed for information stored on the device, carrier records, or data held by an app or platform. A wireless carrier, for example, won't necessarily possess content or app activity that exists only on the phone.
- **The Vehicle Owner, Tow Yard, or Storage Facility:** Requesting that the vehicle and relevant electronic modules be kept available for inspection before repair, salvage, disposal, or other changes make an examination impossible or less useful.

The letter doesn't manufacture a preservation duty that otherwise didn't exist, and sending one doesn't guarantee a court will impose sanctions if evidence later can't be found. A duty may already have arisen under Georgia law. What the letter does is identify the evidence at issue and create a dated record showing that the recipient was told litigation was anticipated and that specific proof should be preserved.

Independent witnesses can be just as time-sensitive. Their memories don't literally overwrite, but contact information gets lost and recollections fade. In a disputed crash, [eyewitness testimony can help confirm signal timing, lane position, speed, and the sequence of impact](#), which is why finding those witnesses early can be just as important as preserving an electronic file.

Spoliation Sanctions Are Not Automatic

When a Georgia court concludes that spoliation occurred, it has discretion to tailor the response to the problem. An adverse inference may be one option, but it isn't the automatic result every time evidence is missing. Courts can consider lesser or more serious remedies depending on what was lost and how the loss affected the other side.

Georgia cases look at factors such as the prejudice caused by the loss, whether that prejudice can be cured, how important the missing evidence was, whether the party acted in good or bad faith, and the potential for unfair use of testimony about evidence that no longer exists. The most severe sanctions are generally reserved for exceptional situations involving serious prejudice and more culpable conduct. Routine loss or negligent preservation failures can be treated differently from deliberate destruction after clear notice.

[Evidence destruction in Georgia truck accident cases](#) can involve additional categories of proof, including electronic logging records, maintenance documents, inspection records, dispatch communications, and onboard camera systems. Some trucking records also have federal retention requirements that don't apply to an ordinary passenger-car collision. The urgency may be similar, but the evidence universe isn't identical.

Once a lawsuit is filed, formal discovery gives attorneys tools to request relevant documents, electronic records, testimony, and other evidence and to ask the court to compel production when appropriate. Discovery can't recreate a recording that was overwritten or a vehicle that was destroyed before anyone could inspect it. That's why identifying and preserving vulnerable evidence before suit can still be critical.

Preserving Evidence Also Protects the Fault Analysis

A strong early investigation doesn't begin with a spoliation motion. It begins with what can still be documented: scene photographs, vehicle damage, road markings, 911 and dispatch records, nearby video, witness contacts, and available electronic data. In an intersection wreck, for example, [video, signal timing, witness accounts, and vehicle data can help establish who had the right of way](#).

That matters because Georgia's [comparative negligence framework](#) allows insurers and defendants to argue that an injured person shares some of the fault. When the evidence is incomplete, ambiguity creates room for competing versions of the crash. Preserving objective proof can keep a later fault argument from being built around information that should have been available.

Since 1993, our attorneys have recovered more than \$1 billion for Georgia families. In serious cases, the work often begins long before a lawsuit is filed: finding proof while it still exists, identifying who controls it, and building a record strong enough to withstand later challenges. Evidence preservation isn't a side issue. It's part of building the liability case from day one.

Our Georgia Car Accident Lawyers Can Help Preserve Critical Evidence

If you've been injured in a Georgia car accident, don't use the statute of limitations as an evidence-preservation schedule. [Georgia personal injury lawsuits generally have a two-year filing deadline](#), but video, device data, vehicle access, and witness information can become difficult to obtain much sooner. An early review can identify which evidence matters in your case and who may have control of it.

We handle Georgia personal injury cases on a contingency fee basis, so you don't pay attorney's fees unless we recover compensation for you. [Contact us](#) for a free case evaluation and let our team determine what evidence may still be available and what steps can be taken to preserve it.