

# Bringing a Law Suit for Accidents and Injuries

Authored By: [Carl Vinson Institute of Government, University of Georgia](#)

Read this in:

[Spanish / Español](#)

## Information

### BRINGING A LAWSUIT FOR ACCIDENTS AND INJURIES

This document tells you the following:

- Who can be legally responsible for a harmful action?
- How much money do you ask for if you are injured?
- What happens if you abuse the judicial process?

### Who Can Be Liable?

Generally, depending on the action, a child younger than a certain age is not held legally responsible for actions that cause harm. However, Georgia law states that a child's parent may be liable to a person whose person or property is willfully injured or damaged by the child's acts. This law is intended to deter children from doing "pranks" that cause damage.

Children of young ages are also considered legally incapable of negligence (or unintended wrongful acts) in Georgia, except when a child commits a harmful act using an object intended for use by an adult. Cars, tractors, chain saws, and powerboats are examples of such objects. If a child injured someone while driving the family boat, the child would have committed a tort. The parents would be liable for damages.

**Corporations, governments, and individuals can be held responsible for torts.** Corporations are creations of the law. They can sue and be sued. Obviously, corporations can act only through their employees. So, if injuries result from the act of an employee on the job, the corporation may be held liable.

Governments are also creations of law. Injuries may result from the actions of government officials or employees. However, **in regard to torts, governments have certain immunities**, meaning they may only be held liable for certain actions (note the immunity of the police officer in situation 9).

**Georgia laws passed in 1987 provided civil immunity to members, directors, trustees, and unpaid officers of nonprofit charitable or government entities if they**

**act in good faith or within the scope of their duties.** Immunity is not available for willful misconduct. Health care providers in charity cases also have immunity.

### **How Much Do You Ask For?**

One question in a lawsuit is how much the plaintiff will ask for in terms of money damages. There are two main categories of damages: actual and punitive.

**Actual damages** cover the injury or harm suffered. Actual damages include special or compensatory damages and general damages for pain and suffering.

**Special or compensatory damages** repay the injured party for economic loss, including repayment for lost wages and medical bills. These damages must be proven at trial with evidence of certain factors such as days missed at work, earnings per day, amount of medical bills incurred, cost of prescriptions, and amount of damage to property.

**General damages** are damages presumed to have been sustained in an accident. For example, if you are involved in a serious car accident, the law will presume that it caused you pain and suffering. Unlike for special damages (such as lost wages, medical bills), there is no exact amount for the jury to award.

**Punitive damages** are the other type of damages. They are awarded in order to punish the defendant and deter others from causing harm in similar ways. These damages are assessed when wrongdoing is aggravated by violence, oppression, malice, fraud, or "wanton or wicked" conduct by the defendant.

In the 1980s, there was some reaction to the large amounts of damages being awarded by juries to plaintiffs, particularly in medical malpractice cases. Insurance premiums were raised, and there were organized protests by the premium payers and insurance industry. This outcry in turn led to legislation being passed throughout the country. **In Georgia, it resulted in the Tort Reform Act of 1987.**

### **What were some of the reforms made to reduce the amounts of damages?**

Several can be illustrated by the following situations:

**SITUATION 14** Mary is in labor and calls an ambulance to take her to the hospital to deliver her child. The ambulance arrives one hour later. The ambulance attendants refuse to take her to the hospital where her personal physician is waiting. Instead, they take her to a nearby county hospital, ignoring her protests and telling her to be quiet.

Mary is so agitated, she has a very difficult delivery. Mary sues the ambulance attendants for intentional infliction of emotional distress.

At the trial, they say they truly believed that Mary was scheduled to deliver at the local hospital. They thought she was confused because she was in labor. The jury members like Mary; she seems sweet. They don't like the ambulance attendants who are unshaven and sloppily dressed. The jury awards Mary \$1,000 in actual damages and \$1 million in punitive damages. The ambulance service's insurance does not cover punitive damages.

**Before the 1987 law, Mary could have collected the million dollars. Now, however, the law puts caps on punitive damages. Further, it sets a higher standard of proof of misconduct. Mary would have to present clear and convincing evidence that the ambulance attendants showed malice, willful misconduct, or total lack of care in order for punitive damages to be awarded.**

**SITUATION 27** Ron purchases a bottle of soda pop. Before he can get the top off, it explodes. The caps on these bottles are defective. The cap hits him in the eye. He has a black eye for weeks. Suppose others had joined Ron in his lawsuit, and the jury had awarded \$200,000 in punitive damages.

Under the 1987 Georgia law, 75 percent of the damages awarded would go to the state and not to the parties. This law was passed to prevent victims from recovering a large windfall instead of an amount of damages that more closely parallels the loss the plaintiff suffered. However, this stipulation applies only in product liability lawsuits.

**These reforms have faced some legal challenges.** In 1991, the Georgia Supreme Court struck down a provision allowing defendants to introduce evidence of other compensation (such as an insurance payment) for injuries except for death. The court ruled that neither the plaintiff's nor the defendant's wealth could be an issue.

Tort reform continues to be the focus of debate in Georgia and elsewhere. This debate is especially contentious in the area of medical malpractice. There are still no limits on the amount of punitive damages that can be awarded for medical malpractice claims. In some cases, this lack of limits has caused medical malpractice insurance costs to rise and, as a result, some hospitals have closed.

\* Excerpted from *An Introduction to Law in Georgia*, Fourth Edition, published by the Carl Vinson Institute of Government, 1998 (updated 2004). The Vinson Institute is not responsible for errors in the online text. Content is for information only; in no way should

the information in the book be considered legal advice to anyone on any matter for which there are legal implications. Any such matter should be specifically addressed with an attorney. The book is available for purchase at or by contacting the Publications Program, Carl Vinson Institute of Government, University of Georgia, 201 M. Milledge Avenue, Athens, GA 30602; telephone 706-542-6377; fax 706-542-6239.

Last Review and Update: Jul 30, 2004