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LAW

**COMMON MYTHS ASSOCIATED
WITH GEORGIA WORKERS'
COMPENSATION CLAIMS**

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Special Report

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WORKERS' COMPENSATION CLAIMS**

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COMMON MYTHS ASSOCIATED WITH GEORGIA
WORKERS' COMPENSATION CLAIMS

- **Pain and suffering is paid in workers' compensation claims.**
In Georgia workers' compensation law you are not entitled to pain and suffering. Pain and suffering would include scarring or the general frustration of the pain that you are suffering as a result of the workers' compensation or on-the-job injury.
- **Lost wages will be compensated.** Under workers' compensation laws of Georgia you are not entitled to lost wages, but you may under certain circumstances be entitled to weekly income benefits. However, if you qualify for these benefits you will be paid 2/3rds of your average weekly wage and capped at a certain amount.
- **You are entitled to weekly income benefits if a doctor or medical provider takes you out of work for more than seven days.** The first seven days that you are out of work due to a work-related injury, you are not entitled to workers' compensation benefits. However, if you are taken out of work for over 21 days consecutively, you will be paid the first seven days and weekly income benefits. If the doctor puts you on light duty, you may have need to look for work within your light duty restrictions to qualify for workers' compensation income benefits.
- **You can go to whatever doctor you want.** Under workers' compensation the laws are very specific regarding medical care. Your medical care is dictated solely by the employer if they have a valid posted panel of physicians. If your employer does not maintain a valid posted panel of physicians then likely you may have the choice of going to whomever you wish to seek medical treatment.
- **You can take the insurance company and your employer to a workers' compensation hearing to make them settle your claim.** In Georgia workers' compensation, the insurance company **does not** have to settle your claim. In fact, if the claim is handled improperly they likely will not settle your claim and

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your claim will be of little to no value to you. This is a common misconception, as often claimants or injured workers often think that when they want to settle the claim they just file for a hearing. Unfortunately, this is not accurate. Georgia workers' compensation law is unlike Georgia personal injury law and, as such, you are not entitled to file a hearing and force them to settle as you would if it was an auto accident or a slip and fall case.

- **All employers are subject to the Georgia workers' compensation laws.** This is not true. Under the Georgia Workers' Compensation Act, an employer must have three or more full time employees in order to be subject to the Act. If an employer does not have three or more employees they are not subject to the workers' compensation laws in Georgia. There are other exceptions as well. If you are concerned about it it is important that you speak directly with someone who practices Georgia workers' compensation law to determine if in fact you are covered under workers' compensation.
- **The insurance company will cover all of my medical care once I've been injured in a work-related injury or accident.** Under the Georgia workers' compensation laws, the insurance company is only responsible for your work-related injuries as it relates to your on-the-job accident or injury. There are exceptions. Those exceptions vary and can be quite complex. If you are concerned about an on-the-job injury and do not know what your status is, you should contact a workers' compensation lawyer immediately for at least a free consultation to make sure that you are protected. One of the key elements in a workers' compensation claim is that the injury occurred while in the course and scope of employment. This means that generally speaking you were injured while you were doing what you were paid to do by your employer.
- **I will have to prove my injury was not my fault.** Under Georgia workers' compensation law, our system is a no fault system. Meaning, that we do not have to prove liability or prove fault. As long as you are injured on the job, in the course and scope of employment, you have a valid workers' compensation claim. There are always exceptions to every rule. Some of the more obvious exceptions to this rule would be that you do not have a valid workers' compensation claim if

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at the time of the injury you were under the influence of drugs, alcohol, or you were involved in horse play.

- **I've been injured severely and I can never return to my previous job; therefore, my workers' compensation claim must be very valuable to me.** Unfortunately, Georgia's workers' compensation law is based and motivated to return the worker back to work. What that means is under Georgia workers' compensation law your employer is not required to return you back to your original job, only back to work. For example, if you have been working in construction all your life and due to the severity of an injury, you can no longer lift heavy materials. While you may not be able to work construction again, there are other jobs that you can do, and as long as you can return to some form of work, workers' compensation will consider that you have been successfully rehabilitated to return back to the workforce. This clearly does not mean that you will be in good shape economically. Unfortunately, some injuries are severe and, regardless of surgery, the medical providers cannot return you back to your original condition. As such, the goal of workers' compensation is to return you back to work, not necessarily back to the job you were working when you were injured.

- **Workers' comp will pay me weekly what I was making on the job.** Under Georgia workers' compensation law, you are not entitled to weekly income benefits until a doctor or medical provider takes you out of work completely. However, there are some exceptions to light duty work restrictions. If you are in a light duty capacity currently you should seek legal counsel immediately to determine what your rights are and where you stand as far as weekly income benefits. Under Georgia workers' compensation law, currently your weekly income benefits are calculated by taking the 13 weeks prior to the injury, averaging out those 13 weeks, and then taking two-thirds of that number as long as that number is not more than the maximum rate which is currently, as of this report, \$500.00 per week. You will receive that amount of money weekly until you have what is called a changing condition as it is related to your work-related injury. Note that a change in condition would be a change in the doctor's position on your injury. For example, you were originally taken completely out of work and upon another visit to the doctor, you are then put

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on light duty work or the doctor returns you back to full duty work.

- **The workers' compensation adjuster has my best interest in mind.** The fact of the matter is the insurance adjuster's primary responsibility is to the insurance company, which is in direct conflict with your interests. It is not uncommon, for the insurance adjuster to direct you to doctors they know are extremely conservative and will return you to work even if you should not be returned back to work. The insurance company's adjusters are trained to do this, this is their job. While this may not seem fair, that is why you have the right and are entitled to seek legal counsel to protect your interests. Keep in mind these adjusters handle hundreds and hundreds of claims daily. While you may have been injured, prior to this injury, your experience under the workers' compensation system will be limited at best. The insurance company knows if you threaten to file a hearing they will hand it off to their attorney who has years of practice in filing and defending workers' compensation hearings. Whereas you maybe have one or two hearings under your belt. The fact is they realize that the system is deceivingly complex and that you as an individual will struggle to be successful. On the other hand, if you have hired counsel, an attorney who has practiced under the Georgia workers' compensation system, the insurance company knows that filing a hearing will be less complicated and more likely to occur. If they are not acting in good faith, they likely will have to pay fees and penalties. Ultimately, the insurance company is a business, and their goal is to make as much money as possible. As such, they do not like to pay out money; they only like to take in premiums.

- **Why should I have an attorney take a percentage of my settlement?** An attorney, if you hire the right one, has the experience in dealing with the adjusters on claims such as yours. If you hire an attorney, there is a better chance that the value of the case could be higher. Because a qualified attorney handles workers' compensation claims such as yours they will know a more accurate value of what your claim is worth, whereas you may not have ever had an injury before in your life may not know what is fair and what is not fair in

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this type of setting. An attorney is the sounding board to help you realize if this is or is not a fair matter.

This report is not legal advice. If you have specific questions you should contact a Georgia Workers' Compensation Attorney immediately toll free at **1-866-937-5454 or 912-233-1100.**

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