

# Winning Liability First: Adapting To Bifurcated Trials In Georgia



Prepared for Georgia Personal Injury Attorneys

## Executive Summary

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Georgia personal injury trials have fundamentally changed. Under Senate Bill 68, effective April 21, 2025, either party may demand that a bodily injury or wrongful death trial be split into two phases: fault first, damages second. For plaintiff attorneys across Atlanta, Savannah, Augusta, and every Georgia jurisdiction, this is not a procedural technicality. It is a strategic reset that changes how every case must be built, prepared, and tried. The attorneys who understand what it takes to win phase one will be the attorneys who continue to recover meaningful compensation for their clients.

## Georgia's New Bifurcated Trial Framework

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Before SB 68, bifurcated trials were available but entirely at a judge's discretion. In practice, they were rare. The new O.C.G.A. Section 51-12-15 creates a statutory right: either party may demand bifurcation in writing before the pretrial order, and the court must grant it unless one of two narrow exceptions applies. Those exceptions are: the plaintiff was injured in a sexual offense and would suffer serious psychological distress from testifying twice, or the amount in controversy is under \$150,000. [1]

The mechanics are straightforward. In phase one, the jury determines fault and comparative negligence only. If the plaintiff is found less than 50 percent at fault, the same judge and jury immediately proceed to phase two for compensatory damages. If the plaintiff is 50 percent or more at fault, the case ends with no recovery. Critically, the phase one jury hears no evidence about the severity of injuries, the extent of treatment, or the value of any loss. As one Georgia defense firm noted, bifurcation was designed deliberately to divorce liability from the sympathy that injury evidence generates. [2]

Defense counsel will routinely demand bifurcation in any case above the \$150,000 threshold. Plaintiff attorneys should expect it in essentially every significant case they try.

# Why Bifurcation Changes Everything For Plaintiff Firms ---

Under the unified trial model, injury evidence was woven into the liability narrative from opening statement through closing. A jury that saw photographs of surgeries and heard testimony about months of painful rehabilitation was emotionally invested in finding fault with the defendant. Under bifurcation, the phase one jury sees none of that. They decide fault based only on the conduct of the parties, physical evidence, and arguments about responsibility.

If the defense presents a credible liability narrative in phase one, a plaintiff who cannot match it on the facts alone risks a defense verdict or a fault apportionment of 50 percent or more — ending the case regardless of how serious the injuries are. This restructuring places an enormous premium on the quality of liability investigation. Georgia plaintiff attorneys must now build two trial-ready cases: a liability case strong enough to win phase one on its own, and a damages case ready to deploy immediately if phase one succeeds.

The data from other states is instructive. After Florida enacted comprehensive tort reform in early 2023, which restructured how cases were tried, the state fell from second-ranked nationally for nuclear verdicts to tenth by 2024. [3] When the architecture of trial changes, outcomes change with it. Georgia defense teams have had months to prepare bifurcation as a standard tool. Plaintiff attorneys who have not built liability-first case files are already behind.

## The Liability Investigation Imperative ---

Winning a bifurcated trial begins at intake, not at trial preparation. The facts that determine phase one exist in the hours and days immediately after an incident. Evidence degrades. Surveillance footage is overwritten. Witnesses forget.

For motor vehicle cases on Georgia's I-75, I-85, and I-285 corridors, early preservation of dashcam footage, black box data, cell phone records, and witness statements is critical. Accident reconstruction experts should be engaged well before the defense retains their own. For premises liability cases, the new negligent security standards under O.C.G.A. Sections 51-3-50 through 51-3-57 now require plaintiffs to prove particularized foreseeability of criminal conduct, making the documentary record of prior incidents more important than ever. [4] For trucking and catastrophic injury cases, hours-of-service logs, GPS data, and electronic logging device records must be preserved immediately.

In every case type, the standard is the same: build a factual record thorough enough to stand alone in front of a jury that has not yet heard a word about your client's injuries.

# The Role Of AI In Liability-First Preparation \_\_\_\_\_

The biggest obstacle to liability-first case preparation is time. In the old unified trial model, some fact development could be deferred. In a bifurcated environment, there is no such luxury.

Supio's platform allows Georgia PI firms to process case documents from the moment they arrive, generating organized timelines, identifying key facts, and flagging evidentiary gaps that need to be addressed early. Rather than spending weeks organizing records before attorneys can evaluate liability posture, Supio makes that evaluation available in hours.

Brandon Smith, partner at Childers, Schlueter and Smith in Atlanta, describes the practical difference. During complex pharmaceutical litigation, his team used Supio's AI Assistant to ask natural language questions about exposure patterns, treatment timelines, and causation links, receiving instant answers with direct citations to source documents. *"The system finds things in medical records we didn't even know to look for,"* Smith says. *"At this point, my team would kill me if I tried to take Supio away from them."* [5]

Supio's can also identify critical evidentiary gaps before they become problems at trial. If a police report references a witness whose statement has not been obtained, Supio flags it. If the medical records suggest a pre-existing condition the defense will use to argue alternative causation, Supio identifies it. Proactive gap identification allows plaintiff attorneys to address liability weaknesses before the defense exploits them in phase one.

Whitley Law, a Southeast personal injury firm, saved 437 hours of work across just six cases during a Supio testing phase, cutting costs by more than \$12,000. Paralegals previously managing 40 cases each doubled their caseloads after full implementation. [6] The operational gains translate directly to litigation readiness: a firm whose team has bandwidth is a firm that is more prepared at every stage of every case, including the liability phase that now must carry the full weight of the plaintiff's argument in trial.

## Tactical Recommendations For Georgia PI Attorneys \_\_\_\_\_

Treat every case above \$150,000 as a potential bifurcated trial from day one. Do not wait for a bifurcation demand to begin building your phase one case.

Invest in early evidence preservation. Engage investigators and experts earlier than you did before SB 68. The facts that determine phase one exist immediately after an incident, not six months later.

Prepare liability witnesses separately. Witnesses in phase one should testify about conduct and causation without reference to injury severity, which requires a different preparation framework than unified trial preparation.

Consider demanding bifurcation yourself. In cases with a strong liability record, plaintiff-initiated bifurcation can produce a cleaner liability verdict uncomplicated by the jury's desire to limit fault in order to limit the damages they feel responsible for awarding.

Build your technology infrastructure now. Firms that can produce a complete liability-focused case summary within days of receiving records will be the most prepared when bifurcation demands arrive.

## Conclusion

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Bifurcated trials are the new normal in Georgia personal injury litigation. SB 68 has handed defense counsel a powerful tool to separate the emotional weight of injury from the legal question of fault. The firms that build their practices around winning liability first will thrive. Those that continue relying on the unified trial model will face a more difficult path.

Georgia's PI market remains rich with opportunity. The facts that support liability in motor vehicle, premises liability, catastrophic injury, and medical malpractice cases have not changed. What has changed is the order of operations. Win on liability first. Then win on damages. Supio is built to make that two-phase preparation fast, thorough, and accurate enough to be sustainable at scale.

To learn more or schedule a demonstration, visit [www.supio.com](http://www.supio.com).

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[1] Kennedys Law, Georgia Enacts Sweeping Tort Reform: Key Takeaways from SB 68 (April 2025). <https://www.kennedyslaw.com/en/thought-leadership/article/2025/georgia-enacts-sweeping-tortreform-key-takeaways-from-sb-68/> [2] McMickle, Kurey and Branch, The 2025 Tort Reform Act: Georgia Charts a New Course Toward Fairer Trials. <https://mkblawfirm.com/the-2025-tort-reform-act-georgia-charts-a-new-course-toward-fairer-trials/> [3] Risk and Insurance, Nuclear Verdicts Skyrocket: Corporate Lawsuit Awards Surge 116% to \$31.3 Billion in 2024 (May 2025). <https://riskandinsurance.com/nuclear-verdicts-skyrocket-corporate-lawsuit-awards-surge-116-to31-3-billion-in-2024/> [4] Shook, Hardy and Bacon, Georgia Tort Reform Laws Bring Significant Changes. <https://www.shb.com/intelligence/client-alerts/public-policy/silverman-gieser-georgia-tort-reforms> [5] Supio Customer Story: Childers, Schlueter and Smith. <https://www.supio.com/customers/childers-schlueter-smith> [6] Supio Customer Story: Whitley Law Firm. <https://www.supio.com/customers/whitley-law-firm> Georgia SB 68 Full Text: <https://legiscan.com/GA/bill/SB68/2025> O.C.G.A. Section 51-12-15 (Bifurcated Trials): <https://legis.ga.gov> O.C.G.A. Sections 51-3-50 through 51-3-57 (Negligent Security): <https://legis.ga.gov>