

# 7 SECRETS



THE INSURANCE COMPANY  
DOESN'T WANT YOU TO  
KNOW ABOUT YOUR  
WORKERS' COMPENSATION CLAIM

Brought to You By  
Award-Winning Attorney  
& Best-Selling Author  
Gary Martin Hays

as seen on



LAW OFFICES OF  
**GARY MARTIN HAYS**  
& ASSOCIATES, P.C.

**770-934-8000**

Copyright © 2015 by Gary Martin Hays. All Rights Reserved.

No part of this book may be copied, reproduced or used in any way without obtaining prior written consent by the Authors or Publisher.

Limit of Liability/Disclaimer of Warranty: While the publisher and authors have used their best efforts in preparing this book, they make no representations or warranties with respect to the accuracy or completeness of the contents of this book and specifically disclaim any implied warranties of merchantability or fitness for a particular purpose. No warranty may be created or extended by sales representatives or written sales materials. The advice and strategies contained herein may not be suitable for your situation. You should consult with a professional where appropriate. Neither the publisher nor authors shall be liable for any loss of profit or any other commercial damages, including but not limited to special, incidental consequential, or other damages.

For more information, please write: Gary Martin Hays & Associates  
PO Box 956669  
Duluth, GA 30095

**7 SECRETS THE INSURANCE COMPANY  
DOESN'T WANT YOU TO KNOW  
ABOUT YOUR  
WORKERS' COMPENSATION CLAIM**

\*\*\*\*\*

- \* What are your rights?
- \* Do I need a lawyer?
- \* I hate the company doctor.  
What can I do?
- \* Are there deadlines for  
filing a claim?

This booklet now reveals the "inside information"  
that most insurance companies don't want you to know  
about your rights if you are hurt on the job.

**PROTECT YOUR RIGHTS!**

**Call  
The Law Offices of  
GARY MARTIN HAYS & ASSOCIATES, P.C.**

**(770) 934-8000**

# **7 SECRETS THE INSURANCE COMPANY DOESN'T WANT YOU TO KNOW ABOUT YOUR WORKERS' COMPENSATION CLAIM**

**By: Gary Martin Hays, Esq.**

## **About The Author:**

Gary Martin Hays is not only a successful lawyer, but is a nationally recognized safety advocate who works tirelessly to educate our families and children on issues ranging from bullying to internet safety to abduction prevention. He currently serves on the Board of Directors of the Elizabeth Smart Foundation and Operation Underground Railroad (O.U.R.). The mission of O.U.R. is to rescue kidnapped children from slavery.



Gary has been seen on countless television programs and stations, including Fox and Friends, Bio Channel, CNN Headline News, ABC, CBS, NBC and FOX affiliates. He has appeared on over 110 radio stations, including the Georgia News Network, discussing legal topics and providing safety tips to families. He hosts "The Gary Martin Hays Show" on the CW Atlanta TV Network, The "Intersection Radio" program on Kicks 101.5, the "Wise Counsel Project" (featured on 104.7 The Fish Atlanta) and has been quoted in USA Today, The Wall Street Journal, and featured on over 250 online sites including Morningstar.com, CBS News's MoneyWatch.com, the Boston Globe, The Miami Herald and The New York Daily News.

Gary has also received 2 Silver Telly Awards for his work on the documentaries "Mi Casa Hogar" and "Stand & Serve." He is also co-- author of eleven (11) best-- selling books "TRENDSETTERS", "CHAMPIONS", "SOLD", "PROTECT AND DEFEND", "THE SUCCESS SECRET", "THE AUTHORITY ON TOUT", and "THE AUTHORITY ON CHILD SAFETY", "CONSUMER'S ADVOCATE", "THINK & GROW RICH", "I WILL MAKE A DIFFERENCE" and "THE AUTHORITY ON PERSONAL INURY CLAIMS in GEORGIA."

Gary graduated from Emory University in 1986 with a B.A. degree in Political Science and a minor in Afro-- American and African Studies. In 1989, he received his law degree from the Walter F. George School of Law of Mercer University, Macon, Georgia. His outstanding academic achievements landed him a position on Mercer's Law Review.

His legal accomplishments include being a member of the prestigious Multi Million Dollar Advocate's Forum, a society limited to those attorneys who have received a settlement or verdict of at least \$2 Million Dollars. He has been recognized in Atlanta Magazine as one of Georgia's top workers' compensation lawyers. Gary frequently lectures to other attorneys in Georgia on continuing education topics. He has been recognized as one of the Top 100 Trial Lawyers in Georgia since 2007 by the American Trial Lawyers Association, and recognized by Lawdragon as one of the leading Plaintiffs' Lawyers in America. His firm specializes in personal injury, wrongful death, workers' compensation, and pharmaceutical claims. Since 1993, his firm has helped over 35,000 victims and their families.

In 2008, Gary started the non-profit organization Keep Georgia Safe with the mission to provide safety education and crime prevention training in Georgia. Keep Georgia Safe has trained over 80 state and local law enforcement officers in CART (Child Abduction Response Teams) so our first responders will know what to do in the event a child is abducted in Georgia. Gary has completed Child Abduction Response Team training with the National AMBER Alert program through the U.S. Department of Justice and Fox Valley Technical College. He is a certified instructor in the radKIDS curriculum. His law firm has given away 1,000 bicycle helmets and 14 college scholarships.

To learn more about Gary Martin Hays, visit [www.GaryMartinHays.com](http://www.GaryMartinHays.com). To find out more about Keep Georgia Safe, please visit [www.KeepGeorgiaSafe.org](http://www.KeepGeorgiaSafe.org) or call (770) 934-8000.

## **INTRODUCTION**

Hurt on the job? Or do you have a family member or friend that was hurt at work?

Then PLEASE - TAKE TIME TO READ THIS IMPORTANT MATERIAL. And please share this booklet with that family member or friend that was hurt on the job. Don't let them go one more day without reviewing the information we are about to reveal. These secrets could possibly have a great impact on their case.

At The Law Offices of Gary Martin Hays & Associates, P.C., we have helped over Thirty Five Thousand (35,000) injured victims and their families with their personal injury and workers' compensation claims here in Georgia. We have dedicated our practice to just handling workers' compensation cases, auto accident claims, and wrongful death cases.

We don't do anything else.

Now why have we given this booklet the title:

### **"7 SECRETS THE INSURANCE COMPANY DOESN'T WANT YOU TO KNOW ABOUT YOUR WORKERS' COMPENSATION CLAIM?"**

It's simple. In practically every case we have handled, the insurance company kept the injured worker in the dark about their rights. Sure they may have told the worker about some of their rights. But they didn't tell them about ALL of their rights.

#### **Until we got involved . . .**

Think about it. Another way insurance companies make money is by holding on to money they would ordinarily have to pay. They get away with this every day. And who suffers? It sure isn't the insurance company!

When a person gets hurt, they generally don't have any idea what their rights are. Do you really think the insurance company is going to explain to that injured worker all of their rights?

#### **NO WAY!**

This is the real word, real life, and how decisions effect the company's profits will often dictate how the injured worker is treated. The information in this booklet will only scratch the surface. There are so many things the insurance company and their lawyers don't want you to know about your case.

**ONE IMPORTANT POINT WE MUST STRESS TO YOU.** The material we are about to share with you is based upon the law existing on and before July 1, 2015. Laws change, either through the Courts or the legislature. So please understand - this booklet is in no way a substitute for current legal advice from a qualified attorney. We encourage you to call us at The Law Offices of Gary Martin Hays & Associates, P.C., if you have any questions about your particular claim.

Our phone number is (770) 934-8000. If you are outside the free calling zones, you can call us on our toll free line at 1-888-934-8100.

**PLEASE NOTE:**

The information we are sharing with you in this booklet is general in nature, and not designed to provide specific legal advice regarding you and your potential claim. The summary listed below may or may not apply to your specific case. Nothing can replace a consultation with an experienced attorney to discuss the facts about your particular claim. Further, should you have any desire to explore pursuing your potential claim, you should not delay as there are various statutes of limitation which could limit or completely bar your claims for recovery should you not pursue the matter in a timely fashion. We are NOT providing you information regarding the specific statute(s) of limitation applicable to your potential claim as this can only be determined after a detailed consultation of your case with an experienced attorney. By providing you with this information, we are not giving you specific legal advice about your case, nor have we been retained to handle your claim unless you and our firm have entered into a written contract of representation regarding your potential legal claim. Should you have any questions regarding a potential claim, please contact us right away at (770) 934-8000 or toll free, 1-888-934-8100.

Now, let's reveal the:

**"7 SECRETS THE INSURANCE COMPANY  
DOESN'T WANT YOU TO KNOW ABOUT  
YOUR WORKERS' COMPENSATION CLAIM."**

**SECRET #1**

Did you know that if you are receiving or have received workers' comp wage benefits in the last 120 days, you may be able to have a one-time exam with the doctor of your choice?

You may be able to see your doctor, not the company doctor, and the insurance company can't stop you. In fact, they have to pay for it!

The law allows you to see any doctor you choose for this exam, **and the insurance company has to pay for it.** Wouldn't it be nice to get an opinion from someone other than the company doctor?

As with any law, there are certain hoops you have to jump through to request this free exam. If you don't comply with the law in requesting this evaluation, you better believe the insurance company will deny your right to this exam. So if you have any questions about your right to this free evaluation with the doctor of your choice, call us at (770) 934-8000 to discuss your particular situation.

**SECRET #2**

Did you know that your employer is required by law to post a panel of doctors for you to see if you are hurt on the job?

Most employers don't even have one posted. If they do, often times it is not in compliance with the law. According to the rules of the State Board of Workers' Compensation, this panel has to be pink, on the most current Board form, and in most situations it has to have at least 6 physicians listed on it. The employer and insurer typically can't have more than 2 industrial clinics on the panel. In our experience and opinion, these "industrial clinics" are usually staffed with doctors that have one goal in mind - return you back to work, even if you aren't physically ready. These are company doctors - plain and simple. We believe that injured

workers are herded through these facilities like cattle. They seem to operate with the mind set that if it is still attached, or if it ain't broken, you are not hurt. We are not fans of these industrial clinics because the doctors hardly ever have the patient's best interest in mind.

Here are some more facts you should know about this panel of physicians:

It must have an orthopedic surgeon listed on the panel, not just an orthopedist. This panel also has to have a minority physician. A female is considered to be a minority physician. The employer is required by law to take reasonable steps to ensure its employees learn about the panel of physicians and to assist them in obtaining medical care from an authorized provider.

If the Employer does not have a panel, or if the panel is not a proper one as defined by law, the injured worker is free to go see any doctor of their choice. If the Employer does have a valid panel, it is still the worker's right to choose the doctor he/she wants to see on that panel. **The employer can't force you to treat with the specific doctor they want you to see on that panel.**

**What can you do to find out if your employer has a proper panel as required by law?**

Get a copy of it immediately. We can't stress that to you enough. We have had clients get a copy of their panel of physicians. The panel turned out to be invalid under the law. It was a bad panel. But when we asked the insurance company for a copy of the panel, they sent us one that was valid. The employer tried to claim they had the valid panel up on the date of our client's accident. But because my client already provided us with a copy of the invalid panel, we stopped them dead in their tracks. End result - our client was able to go see the doctor of his choice. Take a photo of it as it is posted on the wall.

So if you have any questions about whether or not the employer had a valid panel posted on the date of your accident, get a copy of it immediately. And then call us at (770) 934-8000 so we might discuss your particular case.

### **SECRET #3**

Did you know the employer has to pay you your mileage to and from your authorized doctors, your physical therapy appointments, and to get your prescriptions filled?

They have to pay you an amount for each and every mile you travel as long as it is related to your on-the-job injury. All you have to do is keep an accurate and detailed record of all of your trips, including date, time, where you went, the purpose of trip, and the number of round trip miles. Believe us when we tell you that your mileage can add up in a hurry. Keep a record of it so you can get paid. Further, they must reimburse you for any parking charges!

**Remember - it's your money, not the insurance company's!**

### **SECRET #4**

Did you know that you generally have up to thirty days to report your accident to your employer?

A lot of employers and insurance companies may try and tell you that if you didn't report the accident on the day you were hurt, they will not accept your claim because the law requires you to report your accident immediately. This just isn't completely true.



The smart thing and the safest thing to do is to report the accident right away, even if you think it is something that will get better in a short period of time.

We have helped many clients that had what they thought was a minor back injury that later resulted in back surgery when the condition did not improve. If they had waited to report the accident, chances are the insurance company may have denied the claim. It would have taken a lot of time and expense to get the benefits started.

But the law gives you thirty days to report the accident. You must report the injury to your foreman or supervisor within this thirty day time period. If you don't, you had better have a good excuse for failing to give the notice within this time frame.

Give us a call at (770) 934-8000 if you have any questions about the particular facts of your case.

### SECRET #5

Did you know there are three types of benefits you can receive under workers' compensation in Georgia?

Let's talk about these benefits for a moment.

(1) The first kind of benefit is a workers' comp wage check.

If an authorized doctor takes you out of work for more than 7 days, then the insurance company owes you workers' comp wage checks from the 8th day forward as long as the authorized doctor has you totally disabled. These are paid weekly.

(2) The second benefit is your medical treatment.

The insurance company has to pay for the medical treatment for your on the job injury as long as you are treating with your authorized doctor, and the prescribed treatment is likely to effect a cure or provide relief for your injury. This could require the insurance company to pay for medical tests, such as x-ray's, MRI or CT scans, physical therapy, and even surgery.

You may know about the first two benefits. Insurance companies don't always let injured workers know about the third benefit.

(3) This benefit is called a Permanent Partial Disability Rating, or a PPD rating.

Let's explain this in a little more detail.

Assume that before you were hurt on the job, nothing was wrong with you physically. You were at 100%. There were no limitations or restrictions when you would bend, stoop, or lift.

But then you have your accident . . .

You go through your medical treatment, but you still can't get back to 100%. When you get as well as you're going to get, doctors call that point Maximum Medical Improvement, or MMI. There is nothing else they can do to get you back to 100%.

For example, the authorized doctor does an examination under the American Medical Association Guidelines for evaluating permanent impairment. After the exam, he or she tells you that you are only 95% of what you were before the accident because you have lost flexion, or

extension, or motion to the injured body part. In other words, you essentially have a 5% PPD rating.

Based on this rating, the insurance company has to pay you additional money.

Now if you have any questions about any of these benefits, please call us at (770) 934-8000 so we might discuss your particular claim.

### SECRET #6

Do you really know how much the employer and the insurance company are supposed to pay you in weekly wage checks?

Most people don't.

By law, you are entitled to 2/3 of your average weekly wage. But the most the insurance company is obligated to pay you right now is \$525.00 per week. It doesn't matter if you were making \$1,500.00 per week. The most the insurance company has to pay you is \$525.00 per week.

Here are a couple of examples:

(1) If you average \$300.00 per week in gross pay for the 13 weeks before your on-the-job injury, the insurance company is only obligated to pay you \$200.00 per week, which is 2/3 of the \$300.00.

(2) If you average \$900.00 per week in gross pay for the 13 weeks before your on-the-job injury, the insurance company only has to pay you the maximum weekly rate of \$525.00, even though 2/3 of \$900.00 is \$600.00.

And this drastic cut in pay can be especially tough on injured workers and their families when they are used to receiving a full pay check.

Do insurance companies always pay the correct amount?

NO. And if they are paying you less than the maximum amount of \$525.00 per week, they are required by law to file a form that lets you know how they calculated the amount of your weekly check.

Insurance companies often fail to count your overtime pay and they hardly ever include tips, bonuses, or other benefits from your job. But they get away with it every day because injured workers don't know about their rights.

**At The Law Offices of Gary Martin Hays & Associates, P.C., we are working to change that . . .**

If you, a family member, or a friend feel like you aren't getting all the benefits you are entitled to, call us at (770) 934-8000 for a free consultation about your claim.

### SECRET #7

Did you know that the law helps protect injured workers when they try to go back to light duty work?

**This is a big secret!**

Insurance companies and employers want you back to work as quickly as possible so they can get you off of workers' compensation benefits. There is nothing wrong with that goal **if** you are physically capable of returning to work.

That's the big problem most injured workers face every day. They are still hurting, but the insurance company's doctor returns them to work in some capacity because of pressure from the insurance company.

Think about that for a moment. It's all a matter of money. In our opinion, if this company doctor doesn't do what the insurance company wants him to do, he will not be getting any more referrals from them. When these referrals dry up, his business dries up. These company doctors can't afford to lose this business. And you know they are not getting walk in patients off the street.

Would you go to a company doctor if you had some injury that didn't happen on the job. No way. We sure wouldn't.

With these company doctors returning people back to work too soon, what can you do to protect yourself?

If you have been receiving workers' comp checks, and the doctor tells you that you can return to do some light duty job, then we recommend you call us immediately.

Why? In most situations, you are not required to return to work.

There is a law that is there for your protection, as well as the protection of your employer. Now even though you are returned to light duty work, the insurance company has to keep paying you the weekly comp checks until the employer and insurer do three things:

- (1) They have to come up with a detailed job description. It must describe exactly what you will do when you return to work. In the past, a lot of employers would tell doctors they had light duty work available so the doctor would release the employee to work. When the injured worker returned, the employer soon forgot about the light duty work restrictions, and tried to force the injured worker into performing tasks they could not physically do. This often times resulted in the worker getting fired. The employer would claim he fired him because he was a lazy worker. The reality was the injured worker could not physically do the job.
- (2) The authorized doctor has to approve the detailed job description. The doctor must review it to see if the job is going to pose any kind of threat of re-injury to the injured worker, or maybe even put other co-workers or the general public in danger.
- (3) The insurance company has to send you a workers' compensation form that describes the job, the date and time to report to work, and gives you at least 10 days advance notice on when you are to report to work.

Don't be forced into returning to work too soon.

Insurance companies cut off injured workers' checks every day because the worker did not return to the job because he knew he couldn't do it. They also cut off checks without complying with the law. They tell the injured worker that the doctor said he could do light duty. The employer claimed he had light duty work available. So, therefore, they aren't paying any more workers' comp checks.

**This is wrong!** They can not legally do this.

Injured workers have rights that must be protected. Don't be a victim. If you have any questions about returning to work after you have been receiving workers' comp checks, then call us now at The Law Offices of Gary Martin Hays & Associates, P.C., so we can discuss your particular claim. Its a free call. The number is (770) 934-8000. Or toll free, 1 - 888 - 934-8100.

\*\*\*\*\*

### GENERAL QUESTIONS

We are asked these questions on a frequent basis about workers' compensation claims in Georgia. We thought it would be helpful to provide a general answer. Again, for more specific information about your case, please call us.

- (1) Do you have to have a sudden, traumatic injury in order to qualify for workers' compensation?

Answer: No. The injury doesn't have to happen suddenly. It can be a gradual injury caused by the wear and tear of the job. Examples could include carpal tunnel syndrome (a condition caused by repetitive motion in the hands and wrists), loss of hearing from steady exposure to loud noises such as machinery, or even an arthritic condition in the back from frequent heavy lifting. If you are disabled, or if you have sought medical treatment for a condition that you think was caused or aggravated by your job, then call us to discuss the particular facts of your potential claim.

- (2) I was hurt in a car wreck while making a delivery for my employer. The wreck was my fault. Can I still make a claim for workers' compensation benefits?

Answer: Yes. Georgia has adopted a "No Fault" approach to injured workers. Even if the injuries were caused by the negligence of the employee, he/she is still eligible for benefits as long as they did not willfully injure themselves.

- (3) Since my on the job injury, the insurance company has been paying my medical bills and paying me for my lost time from work. Do I really need a lawyer?

Answer: It depends. Do you really trust the insurance company and their lawyers to give you all the benefits you are entitled to receive? Keep in mind that insurance companies make money by hanging on to money they would ordinarily have to pay out. Most insurance companies are not going to go out of their way to maximize your benefits. We strongly suggest you at least talk with an attorney that dedicates a substantial portion of his/her practice to workers' compensation claims. At The Law Offices of Gary Martin Hays & Associates, P.C., we only handle workers' compensation, wrongful death, and personal injury claims. We don't handle any other type of case. Call us and we'll be happy to discuss the facts of your claim and give you our opinion of whether or not you need a lawyer. **It's a free call, and you have nothing to lose!**

- (4) Can I get money for pain and suffering and emotional suffering from my employer for my on the job injury?

Answer: No. Georgia law makes it clear that workers' compensation is your exclusive remedy. Therefore, you are only entitled to receive wage benefits, medical benefits, and additional money if you have a permanent disability. In most situations, you can not sue your employer for any other type of benefit if you were hurt at work.

\*\*\*\*\*

As we noted at the beginning of this booklet, this information is just a small sampling of **Secrets the Insurance Company Doesn't Want You To Know About Your Workers' Compensation Claim.**

So please, don't go another day trying to take on the insurance company and their lawyers by yourself. At least talk with an attorney about your claim. More importantly, talk with an attorney that is experienced in handling workers' compensation cases.

A lot of lawyers will handle a variety of cases, from divorces, to criminal cases, to bankruptcies. At The Law Offices of Gary Martin Hays & Associates, P.C., we handle only workers' compensation, personal injury, and wrongful death claims. That's all we do.

If you have questions about cases other than workers' comp or personal injury, please don't hesitate to call us. We may be able to recommend another lawyer or a law firm that can help you with that particular case.

**We want to be your law firm!**

We hope this booklet has helped you understand a little bit more the secrets about workers' compensation laws in Georgia.

The sad part is the law should not be a secret.

Insurance companies and adjusters will not go out of their way to get you all the cash and benefits you are entitled to under the law.

**But that's what we're here for . . .**

So call us. If you have any questions or concerns about your workers' compensation claim, call now. And please don't delay, because there are several important statutes of limitation that could potentially bar your claim if you wait too long.

So call now. **(770) 934-8000**. And if you are outside the free calling zone, you may call us on our toll free number - 1-888-934-8100.

We wish you all the best, and we look forward to hearing from you and working for you.

**The Law Offices of  
GARY MARTIN HAYS & ASSOCIATES, P.C.**

**(770) 934-8000**