Who Pays When an Off-Duty Employee Causes a Crash in a Company Vehicle in Georgia?

Employer Liability, Personal Errands, and the Insurance Questions That Follow

A Georgia car accident caused by an off-duty employee in a company vehicle raises a question most crashes don't. The driver may have been on a personal errand. But the truck or van belongs to a business with its own insurance. Whether that business shares responsibility can decide how much money is available.

Employers often respond quickly that the driver was off the clock. That answer isn't always the end of the story. Georgia law starts with a presumption that helps injured people. The facts behind the trip also matter in a Georgia car accident claim involving a company vehicle.

Our Georgia car accident attorneys at Gary Martin Hays, LLC look at who owned the vehicle and why the employee had it. We also check what the company knew about the driver. Then we track down every insurance policy that might apply, including the company's policy and the driver's own.

Who May Be Responsible

- **The Employee Who Caused the Crash** – The driver is responsible for their own negligence, whether on duty or not.
- **The Company That Owns the Vehicle** – Georgia presumes an employee driving a company vehicle was working, until the employer proves otherwise.
- **A Company That Ignored Warning Signs** – An employer that handed keys to a known reckless driver may be liable for negligent entrustment.
- **The Company's Insurer** – Commercial auto policies often cover drivers using a company vehicle with permission.
- **Your Own Insurer** – Uninsured motorist coverage may help if the available coverage falls short.

Is an Employer Liable for a Crash in a Company Car?

It depends on what the employee was doing. Under O.C.G.A. § 51-2-2, an employer is responsible for an employee's negligence committed "within the scope of his business." This rule is often called vicarious liability. It holds the business accountable even though it wasn't behind the wheel.

Personal trips usually fall outside that rule. Driving to dinner with friends or running a weekend errand isn't company business. But a trip can mix personal and work purposes, and the details of that trip often decide the case. Vicarious liability in Georgia also applies to other relationships, such as some contractors and agents.

Georgia's Presumption When an Employee Drives a Company Vehicle

Georgia gives injured people an important head start here. In *Allen Kane's Major Dodge, Inc. v. Barnes*, the Georgia Supreme Court recognized a presumption in these cases. If a company owns the vehicle and employs the driver, the law presumes the driver was on the job.

The employer can overcome that presumption, but it needs "clear, positive and uncontradicted evidence." In that case, a salesman's testimony that he was barhopping on a personal outing was enough. Once the presumption is rebutted, the injured person must point to some other fact showing the driver was working.

Evidence That Can Show the Trip Was Work-Related

An employer's statement that the driver was off duty can be tested. Phone records, GPS data, and fleet telematics may show where the vehicle went and when. Dispatch logs, text messages with a supervisor, and on-call schedules can show whether the employee was still responding to work. Receipts can show whether a stop was for business supplies.

Company policies can matter too. *Allen v. Milton Martin Enterprises, Inc.* is a 1990 Georgia Court of Appeals decision. A dealership there required salespeople to keep demonstrator cars on the lot during business hours. That requirement gave the commute a business purpose, and the court sent the case to a jury.

Possible Paths to Recovery After an Off-Duty Company Vehicle Crash

More than one legal theory can apply to the same crash. Each one has different proof requirements, and some don't depend on whether the employee was working. The table below compares the most common paths after a Georgia crash involving an employee in a company vehicle.

Path to Recovery	Who Is Responsible	What Has to Be Shown
Driver Negligence	The employee	The employee drove carelessly and caused the crash
Vicarious Liability	The employer	The employee was acting within the scope of employment
Negligent Entrustment	The employer or vehicle owner	The company knew the driver was incompetent or reckless
Negligent Hiring or Retention	The employer	The company ignored a known danger posed by the employee
Commercial Auto Coverage	The company's insurer	The driver was a covered or permissive user under the policy
Uninsured Motorist Coverage	Your own insurer	The at-fault coverage isn't enough to pay your losses

Negligent Entrustment Doesn't Depend on Work Hours

A company can be liable for its own careless decisions, even if the employee was off duty. Negligent entrustment applies when a vehicle owner lets someone drive despite knowing that

person is incompetent or habitually reckless. Georgia courts generally require actual knowledge, such as a record of DUIs, suspensions, or prior crashes.

Discovery can reveal what the company knew. Motor vehicle records, prior complaints, and internal discipline files may show the employer had reasons to take the keys away. Those claims focus on the company's choices before the crash, not the purpose of the trip. That can keep a company in the case after the scope-of-employment issue is resolved.

Which Insurance Policy Applies?

Many commercial auto policies cover drivers using a company vehicle with permission. Disputes arise when personal use went beyond what the company allowed. The insurer may argue the driver wasn't a covered user at the time. The policy's exact wording, and the company's vehicle use rules, matter a great deal.

The employee's personal auto policy may not help either. Many personal policies exclude vehicles furnished for the driver's regular use, which often includes a company car. Gaps like these leave injured people searching for coverage. They're one reason uninsured and underinsured motorist coverage on your own policy can become important.

How a Company Van Crash Can Unfold

A Smyrna HVAC technician takes his company van home each night so he can respond to after-hours calls. One Saturday, he runs a red light on Windy Hill Road and hits a driver heading home from work. His employer tells the injured driver's lawyer that the technician was off duty and running errands.

The presumption would put the burden on the company to prove that claim. The technician's phone might show a service call that morning. The van's GPS might show a stop at a supply store. His driving record might show two prior at-fault crashes the company knew about. Any of those facts could keep the employer in the case.

The Company's Explanation Is Only the Beginning

An employer that says the driver was off duty is making an argument, not settling the question. Georgia's presumption, the company's records, and its knowledge of the driver all deserve a close look. Evidence like GPS data and phone records can disappear, so preservation requests should go out early.

Hurt by an employee driving a company vehicle in Georgia? Schedule a free case review with our team. With our No Fee Guarantee, you won't pay anything unless we win. We can identify every party and policy that may share responsibility for your injuries, before evidence is lost.