

# The Road To Justice Starts Here

## why this is personal to me

By: Attorney Michael T. Gibson

My name is Michael T. Gibson, and I am a practicing Plaintiff's personal injury attorney in Orlando, Florida. My decision to devote my entire professional life to Plaintiff's work, stems from witnessing my mother's battle against our own insurance company 23 years ago. My mother was driving home from her job as an elementary school teacher in 2000, when an elderly woman, who was driving on the wrong side of the road, struck her head on. That was the last time my mother ever drove a car in her life. What followed that day was a three year battle with her own insurance company over this accident that was not her fault. My mother and my family had faithfully paid premiums to this insurance company for twenty-something years. Yet, the one time she needed them to be there for her, they literally treated her like trash. I remember very clearly being at one of the Court events in that case. The insurance folks looked at my mother and I and basically told us that since we were poor and broke, and they knew we needed the money, that they were going to offer half of her policy limits because we were desperate and would take it. And the truth is, they were right. My mother wanted to just take the offer, because our bills were way overdue.



What stopped my mother from making this mistake that day was her lawyer. I can remember him yelling and screaming at her to just give him an opportunity and to not let the insurance company take advantage of us. Thankfully, my very stubborn mother finally listened to that lawyer, and half a year later, he succeeded in having the insurance company pay out the full policy.

It was through watching this lawyer, and the experience of that insurance adjuster calling my mother and I trash, where my passion to become a Plaintiff's Civil Trial lawyer was born. I vowed at that moment in time that I was going to do for other injury victims what that lawyer did for my mother and me. And every single day since that moment, I have devoted my life to this pursuit.

And running a Plaintiff's personal injury firm is not the easiest business to run. As Plaintiff's lawyers, unlike any other type of lawyer, we do not charge our clients a dime upfront. Additionally, we pay upfront all of the court costs associated with bringing a client's case. Over the 14 years my firm has been around, I have laid out over \$2,500,000.00 in case costs for my clients' cases. And if we take a case and that case doesn't work out or we lose, we do not make a dime. Under Florida's current insurance laws, which do not require drivers to carry liability insurance for injuries they cause to someone else, about 35% of the cases we take in, we will not make a recovery of any type on, as the responsible party does not have insurance. I employ four full-time lawyers, and a support staff of 25. All of these positions are necessary to advance a client's case, and to get them through the various stages of a personal injury case. It usually takes anywhere from a year to five years to bring one of these cases to full resolution.

Despite these challenges, yes, I make a good living. I am the first millionaire in my family history. I have been blessed, and with those blessings, I have done my best to help our community. I invest approximately 10% of my firm's gross profit annually into charitable work, with local churches, and community leaders. When the pandemic hit in 2020, my firm dedicated several members of our staff and I personally financed several food banks, that ran daily. I do these things because I know firsthand what it is like to rely on the charity of those churches and those initiatives. Without similar help in my childhood, I would not have gotten the education I had, and at times, would have been without life's necessities. I also do these things because I believe in taking care of my community. I don't want to just be a firm that people think is there only in the bad times in life. I do the best I can to try to uplift the less fortunate in our community, daily.

I cannot speak for all attorneys in my line of work or that practice this type of law, but for all the reasons above, I am proud of what I do, and I am proud of the firm we have built. And again, everything that I have done in my career was born out of witnessing my mother's personal battle with an insurance company, and the way they treated us.

So, I get deeply personally offended when I hear our Legislative Leaders in Tallahassee saying that lawyers like me are a problem. And I get even more upset, when they propose changes to the law that will significantly limit the ability of my clients to recover from their losses following an accident.

As I write this, the Florida Legislature is considering two tort reform bills, HB 837 and SB 236. These two bills, if passed, would dramatically alter the Florida Civil Justice system, and would greatly impair the ability of the citizens of this State to exercise their constitutional right to a trial by jury for civil damages. Among other things, these two bills would do the following:

- **Bad Faith Reform** – Removes protections from Florida's Bad Faith laws that incentivize insurers to treat policyholders fairly. Currently, the threat of Bad Faith is the only measure that keeps insurance companies from systematically denying, or delaying claims. Without Bad Faith, the insurance companies are free to simply deny payment of claims without any recourse or punishment.
- **Limitations on medical damages** – The bill proposes denying juries access to accurate information about the actual costs of both past and future medical expenses. Let's say you owe the hospital \$5,000 from a car accident visit. This is your balance after your PIP carrier made payment on the rest of the bill. Under this law, the jury would not be able to award you the full \$5,000 for this out of pocket expense. Instead you would only be able to collect a \$1,000 or less, as the jury only gets to consider the amount a private or government insurer would have to pay. And here is the kicker. Despite the fact you could only collect \$1,000 from

Continues on page 2.

# how you can help

Please send a message to your lawmakers in Tallahassee urging them to **vote NO on HB 837 and SB 236**. We have found a way to mail a message and post a Tweet linked to your representatives very easily.

**Here are the simple instructions on how you can do this via text:**

(Your information will not be shared except for this communication)

1. Text the word **RESIST** to **50409**.
2. You will first be given options of which representative you wish to contact. Text back **“State.”**
3. You will then be asked your first and last name so a letter can be created on your behalf. **Enter First and last name.**
4. You will then be asked for your address so your state representatives can be determined. **Enter your address.**
5. You will then be asked if you want to contact your Governor, Legislature, or Both. You will answer **Both**.
6. You will then be asked to text the message you want sent on your behalf. I suggest at a minimum that your message says: **“Vote NO on HB 837 and SB 236. These bills will strip the legal rights of Floridians”.**

You can paste in the following, or your own version of it.....

Vote NO on HB 837 and SB 236. These Bills will strip the legal rights of Floridians allowing Big Insurance to further disadvantage vulnerable injured and uninsured citizens. Their passage will force uninsured patients to seek care in Emergency Rooms and cause a healthcare crisis for all Florida Healthcare consumers at a time when the State's population is growing at unprecedented rates.

HB 837 does not discuss how projected cost savings will benefit Floridians. There is no mention of premium reductions for all insured Florida drivers. It appears we will all suffer the consequence of these proposed changes that will only benefit already profitable auto insurers. Physicians will depart the State and remaining resources will be unnecessarily challenged to serve accident victims.

Vote NO on HB 837 and SB 236. ■

**“Why this is personal to me” continued from page 1.**

- the at-fault party for this expense, you still would be on the hook to pay the hospital the full \$5,000. Sound fair to you? Basically, the bill gives the person that hurt you a 30-70% discount on the bills and damages they cause. Meanwhile you, the injured person, owes 100% to the hospital or doctor.
- **Attorney Fees Reform (627.428)** – The legislation seeks to repeal 627.428, which has existed for more than 130 years to protect David against Goliath. It protects insurance consumers who purchase auto, health, life, or any other first-party insurance from companies that would otherwise delay, deny, or underpay claims. Under current law, if an insurance company denies a claim and then loses at trial on that claim, they then have to pay the insured's attorney's fees. The provision was drafted to hold insurance companies responsible when they do not pay a claim they should have. Taking away this right means insurance companies can deny claims with immunity. The vast majority of insureds will not be able to afford a lawyer to fight their claim. Thus, there would be no recourse if the insurance company denies or delays indefinitely paying your claim.
  - **Moves Florida to a Contributory Negligence Standard** – The bill would shift Florida from a comparative fault standard to a contributory negligence standard of fault. Under current law, each party is responsible for their own percentage of fault. So, if you are found to be 51% at fault, under current law, you recover 49% of your total damages. Under this proposal, if you the Plaintiff are found 51% at fault, you recover nothing. Meanwhile, if the Defendant is found 51% at fault, you only get to recover 51% of your damages. So again, there is a disproportional standard between the Plaintiff and the Defendant.
  - **Eliminates Negligent Security Safeguards** – By adding the intentional tortfeasor to the jury form, the bill guts protections for employees and patrons of businesses that currently have a duty to ensure their safety.
  - **Statute of Limitations Cut in Half** – An amendment added to HB 837 would change the statute of limitations on all negligence claims from four years to two. Instead of having 4 years to investigate and resolve a case, you will now only have 2. The result of that change will be that Plaintiffs will have to file their lawsuits more quickly, and will be forced to bypass negotiation due to this time constraint. So, this measure would actually increase litigation, not decrease the same.

40 years of history in this State proves that none of these measures will be effective at actually lowering your insurance premiums, or the cost of goods or services from a business. These reforms will however dramatically limit and decrease the ability of the citizens of this State to access the Courts to address their wrongs. Citizens will be forced to get discount justice, while wrongdoers, and negligent actors get the benefits of being let off the hook and forced to pay only a small percentage of the damages they cause. This will force many of the injured in our state to seek the aid of the state in the form of Medicaid benefits, as the civil justice system will no longer be there to make them whole.

Again, the right to a trial by jury for civil damages is a Bill of Rights protected right in this country. Our founders thought this right to be fundamentally important. Don't let the insurance industry and the Legislature take this fundamental right away from you, not without a guarantee in return. And the only guarantee this bill offers is the guarantee that you will not receive full justice if this passes.

But my biggest concern from these proposed reforms is what I witnessed over the last eighteen years of my mother's life. In the years following her accident, my mother became addicted to opioid pain killers. As the years rolled on, and the addiction became worse, I came to barely recognize her. It was following the birth of my son that I realized how hopelessly addicted she was. I made a desperate attempt to save her life and to bring her to Orlando, take over her finances and supplement them where



**madd**  
Florida  
NO MORE VICTIMS

**Call to Action**

MADD Florida urges every Floridian to contact their State Representative and State Senator and have your voice heard on the following public safety legislation:

-  **HB 197 & SB 296**  
Yes to add lifesaving sanctions on DUI offenders who refuse to submit to a lawful test of their breath during an investigation
-  **HB 549 & SB 448**  
Yes to aid law enforcement in their DUI investigations and fix a current loophole in Florida's DUI statutes
-  **HB 837**  
No to stripping the right of every Floridian to hold the others accountable and responsible for the full measure of the damages they cause

For more information or to locate your local law maker, contact [FL.State@madd.org](mailto:FL.State@madd.org)



# LA LEGISLATURA DE FLORIDA ESTÁ TRATANDO DE QUITARLE sus derechos constitucionales

Por Juan Jose Rodriguez

Mientras escribo esto, la Legislatura de Florida está considerando dos proyectos de ley de reforma de agravios, HB 837 y SB 236. Estos dos proyectos de ley, si se aprueban, alterarían dramáticamente el sistema de Justicia Civil de Florida y perjudicarían en gran medida la capacidad de los ciudadanos de este Estado para ejercer su derecho constitucional a un juicio por jurado por daños civiles. Entre otras cosas, estos dos proyectos de ley harían lo siguiente:

- **Reforma de mala fe** – Elimina las protecciones de las leyes de mala fe de Florida que incentivan a las aseguradoras a tratar a los asegurados de manera justa. Actualmente, la amenaza de mala fe es la única medida que evita que las compañías de seguros nieguen o retrasen sistemáticamente las reclamaciones. Sin mala fe, las compañías de seguros son libres de simplemente negar el pago de reclamos sin ningún recurso o castigo.
- **Limitaciones a los daños médicos** – El proyecto de ley propone negar a los jurados el acceso a información precisa sobre los costos reales de los gastos médicos pasados y futuros. Digamos que le debe al hospital \$ 5,000 por una visita de accidente automovilístico. Este es su saldo después de que su proveedor PIP realizó el pago del resto de la factura. Bajo esta ley, el jurado no podría otorgarle los \$ 5,000 completos por este gasto de bolsillo. En cambio, solo podría cobrar \$ 1,000 o menos, ya que el jurado solo puede considerar la cantidad que una aseguradora privada o gubernamental tendría que pagar. Y aquí está el truco. A pesar del hecho de que solo pudo cobrar \$ 1,000 de la parte culpable por este gasto, aún estaría con la responsabilidad de pagarle al hospital los \$ 5,000 completos. ¿Te parece justo? Básicamente, la factura le da a la persona que lo lastimó un descuento del 30-70% en las facturas y daños que causan. Mientras tanto, usted, la persona lesionada, debe el 100% al hospital o al médico.
- **Reforma de honorarios de abogados (627.428)** – La legislación busca derogar 627.428 que ha existido durante más de 130 años para proteger a David contra Goliath. Protege a los consumidores de seguros que compran seguros de automóviles, salud, vida o cualquier otro seguro de primera parte de compañías que de otro modo retrasarían, negarían o pagarían menos de lo posible. Según la ley actual, si una compañía de seguros niega un reclamo y luego pierde en el juicio por ese reclamo, entonces tienen que pagar los honorarios del abogado del asegurado. La disposición fue redactada para responsabilizar a las compañías de seguros cuando no pagan un reclamo que deberían tener. Quitar este derecho significa que las compañías de seguros pueden negar reclamos con inmunidad. La gran mayoría de los asegurados no podrán pagar un abogado para luchar contra su reclamo. Por lo tanto, no habría ningún recurso si la compañía de seguros niega o retrasa indefinidamente el pago de su reclamo.
- **Mueve a Florida a un Estándar de Negligencia Contributiva** – El proyecto de ley cambiaría Florida de un estándar de culpa comparativa a un estándar de culpa de negligencia contributiva. Bajo la ley actual, cada parte es responsable de su propio porcentaje de culpa. Por lo tanto, si se determina que tiene un 51% de culpa, según la ley actual, recupera el 49% de sus daños totales. Bajo esta propuesta, si usted, el demandante, es encontrado culpable en un 51%, no recupera nada. Mientras tanto, si se determina que el Demandado tiene un 51% de culpa, solo puede recuperar el 51% de sus daños. Así que, de nuevo, existe un estándar desproporcionado entre el demandante y el demandado.
- **Elimina las salvaguardas de seguridad negligentes:** al agregar el agravante intencional al formulario del jurado, el proyecto de ley elimina las protecciones para los empleados y clientes de las empresas que actualmente tienen el deber de garantizar su seguridad.
- **Estatuto de limitaciones reducido a la mitad:** una enmienda agregada a HB 837 cambiaría el estatuto de limitaciones en todas las reclamaciones por negligencia de cuatro años a dos. En lugar de tener 4 años para investigar y resolver un caso, ahora solo tendrá 2. El resultado de ese cambio será que los demandantes tendrán que presentar sus demandas más rápidamente y se verán obligados a eludir la negociación debido a esta limitación de tiempo. Por lo tanto, esta medida en realidad aumentaría los litigios, no disminuiría los mismos.

40 años de historia en este Estado demuestran que ninguna de estas medidas será efectiva para reducir realmente sus primas de seguro o el costo de los bienes o servicios de una empresa. Sin embargo, estas reformas limitarán y disminuirán drásticamente la capacidad de los ciudadanos de este Estado para acceder a los tribunales para abordar sus errores. Los ciudadanos se verán obligados a obtener justicia de menos valor, mientras que los malhechores y los actores negligentes obtienen los beneficios de ser liberados y obligados a pagar solo un pequeño porcentaje de los daños que causan. Esto obligará a muchos de los heridos en nuestro estado a buscar la ayuda del estado en forma de beneficios de Medicaid, ya que el sistema de justicia civil ya no estará allí para recuperarlos.

Una vez más, el derecho a un juicio por jurado por daños civiles es un derecho protegido por la Carta de Derechos en este país. Nuestros fundadores pensaron que este derecho era fundamentalmente importante. No permita que la industria de seguros y la Legislatura le quiten este fundamento de inmediato, no sin una garantía a cambio. Y la única garantía que ofrece este proyecto de ley es la garantía de que no recibirá justicia completa si esto se aprueba.

Le insto a que eche un vistazo a la historia de fracaso de los esfuerzos anteriores de reforma de agravios, y luego, por favor, comuníquese con su Representante y Senador de la Cámara de Representantes del Estado, y su Gobernador, y los inste a votar no a HB 837 y SB 236. ■

[“Why this is personal to me” continued from page 2.](#)

needed, and to basically take care of her. I had one condition, she needed to go to rehab, on my dime, and get clean. My mother chose the drugs over me and my family. And shortly after that, I made the most difficult choice I have ever made, and I stopped sending her money. I did so because I didn't want to finance her death. That led to her ceasing to speak to me or having anything to do with me. Eight years later, I got the call that I knew was coming for eighteen years. My mother was dead and gone. She was found on the floor in her home. She died on the eve of a court hearing to foreclose on her house. The same drugs that were her life for eighteen years, ended her life.

My fear if this bill passes, and accident victims are left to their own accord to treat their pain, is that there are many whose story will end the same as my mother. Victims who can no longer rely on the civil justice system for funds and treatment necessary to overcome their injuries will turn to opioids and other drugs. Victims forced into the Medicaid system, who will not be able to get life altering medical care, will simply be prescribed prescription pain killers. Again, I have lived this experience. It was a terrible way to lose someone. I watched my mother destroy every single relationship in her life due to that addiction. I watched her lose the job she loved, and as time went on, it was like she died ten years before she left this earth. It was literally adding insult to injury. The emotional pain of watching that is something that if I am being honest, I have never really dealt with. I instead have put my efforts into doing the best I can for my clients to avoid the same fate.

I ask that you please consider my family's story and ask yourself if anyone deserves such a fate due to an accident or injury that was not their fault. And I urge you to take a look at the history of failure of previous tort reform efforts, and then please, reach out to your State House Rep and Senator, and Your Governor, and urge them to vote no on HB 837 and SB 236. ■



2420 S. Lakemont Ave, Suite 150  
Orlando, FL 32814  
(407) 422-4529  
www.autojusticeattorney.com

## why this is personal to me



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## THE AUTO JUSTICE COMMUNITY HERO OF THE MONTH

# Gary Dunn, III

**By: Attorney Michael T. Gibson**



Gary Dunn, III, is the principal of Discovery Intermediate School, which is part of the Osceola County School District. Mr. Dunn was born and raised in a small town in Pennsylvania. After high school, he pursued his love for educating youth and received a bachelor's degree in Elementary Education from Mansfield University of Pennsylvania. Shortly thereafter, his wife graduated from the Mansfield with an Elementary Education Degree. They then moved to Osceola County to accept teaching positions. After 4 years teaching 6th grade reading, Gary received his Masters Degree in Educational Administration from Grand Canyon University, and became Dean of Students, followed by becoming the Assistant Principal of Discovery Intermediate School, and now is the school principal.

Gary and his wife Stephanie, have three children and are very active in their local church, Cornerstone Family in St. Cloud. Gary and his wife are both leaders in the church's youth group and work hand in hand with their youth pastor to ensure that the youth program reaches into the community to engage students with the Gospel of Jesus Christ. Outside the church, the family enjoys spending time with their many farm animals, along with watching the Tampa Bay Lightning, and Orlando Solar Bears, and taking in the Christian concerts that make their way to Central Florida.

For all he does to make Central Florida a better place to live, we salute Gary Dunn, III, as our AutoJustice Community Hero, and thank him for his service to our community. ■

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