

Tortfeasor or not, she needs a new car

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On an ordinary afternoon in January, a single mom named Erica Fernandes was headed north on Dale Mabry to her waitressing job when a Hillsborough County school bus tried to turn left in front of her at the light.

Crunch.

Her '95 Honda minivan hit the front passenger side of the bus, which thankfully contained no kids.

"I don't even think I budged the bus," says Fernandes, 31. But the bus budged her. She was banged up and sore, and her crumpled van had to be towed. "It was a cool car, for a minivan," she says, sounding a little sad about it.

The cop on the scene wrote in his report that the bus indeed turned in front of her, but he declined to write anyone a ticket.

The insurance companies, or even the courts, could hash it out, right?

Well, eventually.

Because what should have been a typical fender-bender headache of paperwork and inconvenience is morphing into a potential months-long ordeal — all because of a quirk in the law that governs how the little guy can sue state and local government.

These laws do things like limit the amount of money you can get out if you win and cap how much your lawyer can make. In Fernandes' case, the trouble came from the part where the law gives government time to mull a claim over and keeps her from suing for up to six months. While the bills pile up.

(By the way, if you've ever wondered if they deliberately write these things in incomprehensible legalese just to keep anyone but lawyers from comprehending them, here's your evidence: this one goes on about the "tortfeasor." You know, someone who commits a tort.)

Fernandes, who believes she was not at fault because the light was green when she entered the intersection and yellow when the bus turned into her path, hoped for help paying for a rental car, which is not covered by her minimal insurance and way beyond her family-of-five budget.

But the adjustor representing the school system said he didn't think the bus was fully responsible, Fernandes' lawyer said.

Because the law essentially gives the government up to six months before you can sue them, "right now there's no pressure on them to be reasonable," says Fernandes' attorney Dale Appell. "We don't think their position is reasonable. When a lawsuit is filed, people get reasonable." And even if they don't agree, "at least we get to court to make a determination," he says.

"I was like, 'Are you kidding?' " Fernandes says.

So a tow yard is charging \$25 a day for a van her attorney believes will be totalled. Fernandes has picked up rides where she can, rented a car for a day, then another. Her kids walk to school.

Super Bowl Sunday she worked morning to midnight for tips to pay another week's car rental, which put her behind on bills. A new car is beyond her budget. She finished school last year to become a certified dental assistant, but the job search will have to wait until she has reliable transportation again.

Her lawyer has contacted state Rep. Kevin Ambler to see if something can be done with the law, if claims for less than \$50,000 can be handled more quickly to avoid hurting the little guy — or working woman, as the case may be.

"I feel like I've been hit by a bus all over again," Fernandes says. No, just the law.