



# NICHOLSON REVELL LLP

ATTORNEYS AT LAW

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SUMMER 2011

Brought to you by  
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## PRACTICE AREAS

- Serious personal injury
- Wrongful death
- Consumer protection
- Consumer class action
- Workers' compensation

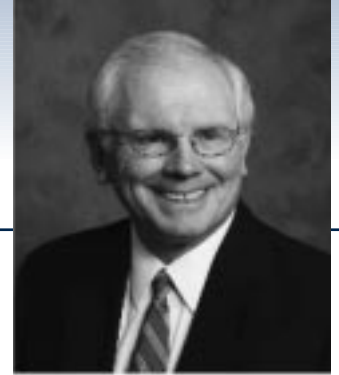
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# Super Lawyers

2011

*Congratulations to Sam Nicholson  
on being designated a 2011 Super Lawyer  
in the state of Georgia!*

[www.SuperLawyers.com](http://www.SuperLawyers.com)



Each candidate is evaluated on 12 indicators of peer recognition and professional achievement. The objective is to create a credible national listing of outstanding attorneys that can be used as a resource to assist attorneys and consumers in the search for legal counsel. Sam has been practicing law in Augusta for over 30 years and was selected for his expertise and achievements in all areas of personal injury and consumer protection/class-action cases.

## Be alert to MEDICAL MISTAKES

Before any surgical procedure or medical test, it is your right to be advised of the risks associated with the procedure, and the consequences should it not go as expected.

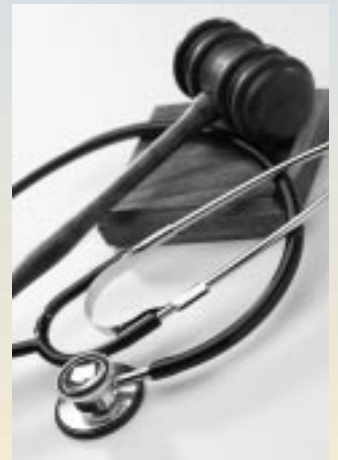
You will be asked to sign a form indicating that you understand and accept the risks. This is called "informed consent," and it is only valid if you understood the consent form, if the information was presented in plain language, and if your doctor or another medical representative was present to answer your questions to your satisfaction.

Understanding the risks associated with surgery or medical tests does not limit your rights to pursue legal recourse if there should be a bad outcome due to medical mistakes.

Some of the most common medical errors involved in malpractice litigation include:

- **Childbirth-related complications.** These can begin with prenatal-care mistakes, such as the failure to diagnose problems relating to the pregnancy, like identifying an ectopic pregnancy or pre-eclampsia, that put the mother's and the baby's health at risk. Other common errors include not performing a timely cesarean section, not anticipating complications, and incompetent use of forceps.
- **Medication errors.** These account for more than 1.5 million injuries every year in the United States and include dispensing errors such as wrong dosages or medication mix-ups, improperly prescribing medications for a condition, or dangerous drug interactions.
- **Misdiagnosis or delay of diagnosis.**
- **Anesthesia errors and surgical mistakes.**

If you or a loved one has experienced a negative medical outcome, do not assume that because a consent form was signed that you have waived your rights to compensation. Get your medical records, keep a record of your complications, and contact our office to discuss what legal actions might be appropriate.



Committed • Caring • Professional

# HOW TO GET YOUR **medical records**

*Your medical records are among the most important pieces of information that you will need if you are the victim of a personal injury. Your medical records prove that you sustained the injury, and your case will hinge on what these records say about your condition. It may not always be easy to retrieve these records.*

The federal Health Information Portability and Accountability Act (HIPAA) gives patients the right to copies of their medical records from any medical provider, with a few exceptions. Under HIPAA, you are entitled to your own records, someone else's records if you are their representative or legal guardian, your children's medical records, and, in some cases, a deceased person's records. Under HIPAA, you should receive your records within 30 days of your request. The provider is allowed to charge a fee for copying the records. If you want to see the original records, they must show them to you, but they are only required by law to give you a copy, not the originals.

It is often advisable to get copies of your medical records as soon as possible. Our office can assist you, or you can do it yourself.



## **KEEP IN MIND:**

- Your request should be in writing, and you should keep a copy of it.
- You must fill out a release form—HIPAA rules require it.
- You will need to include personal information in the request, including name, address, date of birth, and possibly Social Security Number.
- You should give the dates of the records you want, especially hospital records.
- Discuss with your attorney which records are important to your case.
- Carefully review your records to make sure they are complete and accurate. Errors can be made and it is up to you to correct any inaccuracies.



## **Emotional damages**

Among the types of damages that can occur as a result of an accident, the best known are physical injuries and property damage. Less well known, and sometimes more difficult to prove, are emotional damages. You may hear these referred to as “pain and suffering.”

Pain and suffering, and emotional distress are considered “noneconomic” damages. Often to be eligible for pain and suffering, and emotional-distress damages, you have to have endured physical injury requiring medical care; you can't just be upset by the accident.

There is the stress and strain of suffering the pain, as well as the treatment of the injury, along with the emotional trauma of the accident itself, and the anxiety and depression that can accompany a prolonged recovery or a permanent disability.

While there are genuine reasons for emotional distress, there is no clear proof of how much, if any, emotional distress you suffered. To protect your rights and maximize your damages for emotional distress, you should:

■ **Visit a psychiatrist or other specialist** who can give you a diagnosis and testify to the emotional distress you endured. If you have been diagnosed with something like posttraumatic stress disorder based on your emotional distress, you have a better chance of recovering more damages for it.

■ **Keep a record of incidents that demonstrate your distress.** For example, if you cannot sleep or if you are having flashbacks to the accident, write this information down in a journal, along with the date and time and other details, so you can present it to a jury or to the insurance company.

# Be Aware of Recalls

*Protect your family!*



## **Folding wooden chairs**

**Recall reason:** The wooden frame of the chairs can break, posing a fall hazard to consumers; injuries include back and shoulder pain, sprains, and contusions.

**Description:** HD Outdoor is printed on the chair's packaging.

**Sold at:** Kroger, Fred Meyer, Ralphs, Fry's, Smith's, Dillon's, Gerbes, City Market, and Baker's stores nationwide. Made in Taiwan; sold for \$50 each, or in a 3-piece set for \$130.

### **Take action:**

Return chairs to the store where purchased for a full refund.

Call importer Kroger Co. at (800) 632-6900 between 8 a.m. and 9 p.m. ET; or [www.kroger.com](http://www.kroger.com).

## **Husqvarna riding lawn tractors**

**Recall reason:** Fire hazard caused by fuel line that can come in contact with moving parts when the tractor is in use.

### **Models recalled:**

GTH27V52LS lawn tractors with model numbers 96043009100 and 96043009900, with serial numbers 010810A00XXXX through 05061000XXXX.

Made in U.S.A. for about \$3,000.

### **Take action:**

Stop using the recalled riding tractors immediately.

Contact Husqvarna toll-free at (877) 257-6921 between 8 a.m. and 8 p.m. ET, Monday-Friday, and between 8 a.m. and 3 p.m. ET, Saturday.

## **Kawasaki 2010 KLX110 off-road motorcycles**

**Recall reason:** Faulty ignition-switch housing can allow water to enter and activate the electric starter, posing a serious hazard of injury or death.

### **Models recalled:**

Kawasaki off-road motorcycles in green color, 2010 model year KLX110CAF and KLX110DAF.

Made in Thailand; sold for about \$2,100.

### **Take action:**

Stop using these vehicles immediately.

Contact a local Kawasaki Motorcycle dealer to schedule a free repair—(866) 802-9381 between 8:30 a.m. and 5 p.m. PT, M-F; or [www.kawasaki.com](http://www.kawasaki.com).

## Protect yourself from harassing creditor calls

As a consumer, you have rights. If debt collectors are wrongfully contacting you or if you are a victim of improper reporting to the credit bureaus, call us for a consultation.

In addition to protection from state law, there are two important federal laws that protect citizens from damaging actions by creditors.

The Fair Debt Collection Practices Act (FDCPA) spells out a strict process for collection companies to follow when trying to collect consumer debts.

When contacting consumers, debt collectors must identify themselves and disclose the purpose of the call, and harassment is prohibited. If it is proven that a debt collector violates this law, the consumer can be paid damages of up to \$1,000, plus expenses and legal fees.

Simply put, if you win a claim against a harassing creditor for violating the FDCPA and win, you will be reimbursed for your expenses in pursuing the claim.

The Fair Credit Reporting Act protects you when a creditor reports incorrect information about you to credit agencies.

If the false information is the result of creditor negligence, consumers may recover all actual monetary damages and costs of the corrective action and legal fees.

If the creditor intentionally misreports your credit information, you may be entitled to up to \$1,000 in statutory damages, plus actual damages, punitive damages, and costs of the action and legal fees.





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The information you obtain in this newsletter is not, nor is it intended to be, legal advice. You should consult an attorney for advice regarding your individual situation.



## When the dog BITES

*Who is liable when a dog bites?* Typically, the dog owner is responsible for severe personal injuries caused by a dog. The owner or his/her insurance company usually must compensate the victim for injuries. Owners and dog-bite victims should note the following:

- State dog-bite statutes are known as “strict liability” statutes. This means that the victim does not have to prove negligence on the part of the owner, just that she/he owns the dog that bit the victim.
- Where there is no statute, the “one bite” rule often applies. Basically, this means that if the dog bit anyone before, the owner is on notice that the dog is a bite risk and the owner must take appropriate precautions—for example, making sure the dog is fenced, on a leash, and restrained from running free. In these cases, the victim must prove that the dog owner knew about the dog’s bite history.
- Dog fighting is illegal, but if the dog is a fighter and known to be so, the owner must protect the public from him.



***About 4.7 million people suffer dog bites every year, and approximately 800,000 require medical attention.***

***Protect your rights and understand your liability in the event of a dog bite by contacting our office.***