

# Scott Baron & Associates, P.C.

## Attorneys & Counselors At Law



Fall 2015



159-45 Cross Bay Blvd  
Howard Beach, New York 11414  
718-738-9800  
Fax 718-738-3912

1750 Central Park Avenue  
Yonkers, New York 10710  
914-337-9800  
Fax 914-337-9805

Email: [general@scottbaronassociates.com](mailto:general@scottbaronassociates.com)

Web: [www.scottbaronassociates.com](http://www.scottbaronassociates.com)

**1 (866) WAS-HURT**

## Preparation makes fire aftermath a little easier

A home fire is an absolute disaster for any family. Even if everyone is lucky enough to escape without injury, a fire can consume a house and everything in it, leaving the victims without shelter, clothes, prized possessions, and family heirlooms. The prospect of starting over with nothing can be overwhelming. That is why it is important to make some preparations now, just in case you are ever in the unfortunate position of having to deal with the aftermath of a home fire.

First, make sure your home has working smoke detectors in every room. Next, make sure your family all know more than one way to escape the house and where everyone can meet up outside in case of emergency. These two precautions will greatly increase the chances of everyone avoiding injury or worse.

After a home fire, you will be faced with the task of making an insurance claim and trying to get reimbursed for your insured property. You may think this is a simple process. If you do, you may be sorely disappointed if you ever have to fight over the value of your possessions with your insurer. Even the best insurance companies make their money by paying out less in claims than they make in premiums.

To ensure you are treated fairly and compensated justly, you should prepare a list of valuables. This list should include a complete description of all major items in your home. Include make, model, and serial number for any items that have them. List the purchase price as well as current value and replacement price if you know them. Take pictures of each item on your list as well. You can keep a copy of this list in a secure place, like a fire-proof safe, or give a copy to a friend or family member to keep safe for you. Include with it any receipts for the items.

Finally, take a fresh look at your insurance policy and make sure that you have enough coverage for the amount of property in your home. If you have any especially high-value items, like antiques or collectibles, you may want to ask your insurance agent if you need a "rider" on your policy to cover them.

If you find yourself working through the aftermath of a home fire, do not hesitate to call our office with any questions you may have. The insurance company will have attorneys to represent their interests. You should too.

*If you need our services,  
please contact us at...*

**1-866-WAS-HURT  
(927-4878)**

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

### PERSONAL INJURY PRACTICE

- Free consultation
- Home & Hospital appointments available
- 24-hour, 7-Day emergency service
- No recovery, no fee.

*We do not get paid unless you do.*

### ALSO HANDLING:

- Auto accidents
- Pedestrian accidents
- Motorcycle accidents
- Bicycle accidents
- Bus & train accidents
- Building accidents
- Elevator & ceiling collapses
- Sidewalk Falls
- Stairway accidents
- Ladder & scaffolds
- Construction accidents
- Slip & fall accidents
- Dog bites
- Job related injuries
- Lead poisoning
- Wrongful death





# The **4 PRECAUTIONS** every pedestrian should take to stay safe

The most overlooked aspect of road safety concerns pedestrians. Maybe because walking comes so naturally to us we tend to take its safety for granted. The truth is that when walking along a roadway, pedestrians are placing themselves at great risk. The best way for a pedestrian to make sure they reach their destination safely is to focus on prevention. When sharing the roadway while on foot, pedestrians should take the following four precautions:

- 1 **Prepare before departing.** It is a good idea to plan out the safest walking route from point A to point B. Whenever possible, stick to roads that have sidewalks (or at least broad shoulders), are well lit, have slower speed limits, and don't have a lot of traffic. When walking after dark, wear bright, reflective clothing and carry a light.
- 2 **Know the rules.** Pedestrians should follow the rules of the road to make their walk safer. Stay on the sidewalk, if there is one. If not, stay as far to the side of the road as is safely possible. Walk on the left side of the road, facing oncoming traffic. Cross at crosswalks, intersections, or corners and obey all pedestrian crossing signals.
- 3 **Watch for traffic.** It's best for pedestrians to act as if drivers do not see them. We all know about the problem of distracted driving. There are also a lot of times when a driver is focused on other cars and misses a pedestrian. Watch for cars that are backing up. When crossing in front of a car, make eye contact with the driver.
- 4 **Walk defensively.** Just like how drivers should practice defensive driving, pedestrians should practice defensive walking. Stay alert! Walking in traffic is not the time to be texting or surfing the Web. Try to anticipate what drivers are going to do. Give cars extra time to stop in bad weather and at night.

*If you or a loved one has been injured in a car/pedestrian accident, contact our office for a free consultation.*

## What is Eminent Domain?

Many of you have likely heard of eminent domain - the government's power to take private property for public use. The idea of eminent domain traces its roots back to common law. The Fifth Amendment guarantees the right of Americans to receive just compensation if their property is taken by eminent domain.

Generally, when we think of the uses for eminent domain, we think of public goods like roads, utilities, rail lines, and public buildings. There have, however, been more and more cases recently where government has taken private property under eminent domain to give to private developers to build higher-valued properties. This has become controversial.

When the government (local, state, or federal) uses eminent domain, they must provide just compensation to the property holder. The amount of this compensation is the fair market value, as determined by an appraiser. If the property owner does not agree with the amount offered, they do have the right to take the matter to court.

## Are personal injury settlements taxable?

**YOU  
WON!**

**Now what?**

If you received a settlement or other proceeds from a personal injury lawsuit, you must figure out if that money is taxable. The answer is - it depends. The IRS has a whole lot of rules about what money you do and do not have to pay taxes on. Below, we will give you some general information about settlements and taxes. It is smart to consult a qualified tax accountant to help you with the specifics of your situation.

If you received a personal injury settlement you do not have to pay taxes on it, with one exception. If you deducted medical expenses in prior years for the injury the cases dealt with, you must claim that portion of the payout.

Any money awarded for emotional distress or mental anguish is also free from taxation if it is related to the personal injury. If the distress or anguish came from a source other than injury or physical illness, it is taxable.

Punitive damages are always taxable. They should be reported as "Other Income."

In the case of lost wages, the portion of the settlement that covers front pay, back pay, and severance pay is treated as taxable income.

# What to do if you're in an auto accident

Even if everyone on the road was a great driver, accidents would happen. That's why it's important for every driver to know what to do if it happens to them.

The first thing to do is pretty obvious— make sure everyone is okay and get help for the injured. Whether or not there are any injuries, it is important to call the police. The police will help maintain safety at the scene, take statements from witnesses, and file an accident report that will be needed later when making an insurance claim.

Once everyone's safety is secured, it is time to gather information about the accident. If there are any problems with the insurance claim, this information will be vital. You will want to gather all the information you can on the other driver and their vehicle including their name, address, phone number, license plate number, year/make/model/color of all vehicles involved, and everyone's insurance information. Also, get the names and contact information of any witnesses.

If you can, take pictures of the vehicles and the scene. Write down a few sentences about what happened while it's all still fresh in your memory. Also take notes about the weather, road conditions, the other driver, and any other details that you can remember. A simple drawing of the scene can also be helpful.

After everything is cleaned up at the scene it is time to make phone calls. Your first call should be to your insurance agent so they can get started on the claim. Your next call should be to your attorney. No matter how much you like your insurance company, their business is based on paying out less in claims than they make in premiums. An experienced attorney can make sure you are treated fairly.

## The Fifth Amendment

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

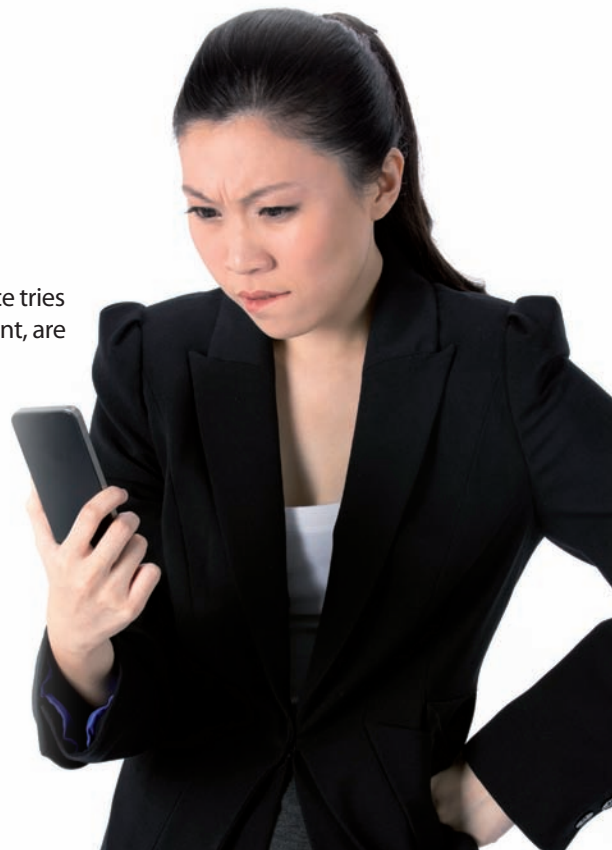
## A victory in the battle against robocalls

Do you like receiving robocalls? Didn't think so. Those annoying calls where a recorded voice tries to sell you something or demand money from you, even if you are not the intended recipient, are a common annoyance. Sometimes, they cross the line from annoyance to harassment.

Araceli King of Irving, Texas received 153 robocalls (intended for someone else!) to her cell phone from Time Warner Cable in less than a year. King made clear that she was not "Luiz Perez", the person who the messages left on her voice mail were meant for, in a 7-minute conversation with a Time Warner representative. Still, the calls did not stop. In fact, 74 of the calls to King were made **after** she filed a law suit alleging harassment.

U.S. District Judge Alvin Hellerstein agreed that the sheer quantity of calls and the company's lack of effort in finding the person they were really trying to reach was not responsible behavior. "Defendant harassed plaintiff with robo-calls until she had to resort to a lawsuit to make the calls stop, and even then TWC could not be bothered to update the information in its IVR system," Hellerstein wrote.

King won her suit and now Time Warner must pay her \$229,500 in damages.





# AUTUMN LEAVES can prove dangerous

It sounds a little silly, those pretty leaves of different colors being a danger to anyone. Unfortunately, when leaves fall in the autumn, they can prove to be the cause of dangerous slip-and-fall accidents.

If a person slips on some leaves or trips over something hidden by a pile of leaves, the person walking and the property owner share responsibility for the accident. Property owners should periodically clean up fallen leaves, especially on sidewalks used by the public. Walkers must take precautions. For example, it is dangerous to step blindly into a pile of leaves since anything could be hidden underneath that could cause a fall and injury.

So how would a court decide who is at fault in a fall like our above example? Generally speaking, this example would be treated like any other slip/trip-and fall accident and the injured party would have to prove that the accident was caused by a dangerous condition or negligence. They can do this by showing, first, that the injured party did everything that a "reasonable" person would have done to be safe and second, that the property owner did one of the following:

- ▷ Knew about a dangerous condition on the property and did not fix it,
- ▷ Caused a dangerous condition and did not fix it,
- ▷ Should have known about a dangerous condition because another "reasonable" person in their position would have known about it.

***If you or a loved one has been injured in a slip-and-fall accident and would like to discuss whether or not you have a case, please contact our office for a free consultation.***

*Thanks to all of you who have recommended our firm to your relatives, friends, and neighbors. We appreciate your vote of confidence and pledge to care for these "VIPs" as well as we care for you.*

## SCOTT BARON & ASSOCIATES, P.C.

Attorneys & Counselors At Law  
159-45 Cross Bay Blvd  
Howard Beach, New York 11414

PRESORTED  
STANDARD  
U.S. POSTAGE PAID  
LANCASTER, PA  
PERMIT NO. 242



### ATTORNEY ADVERTISING

\*The information included in this newsletter is not intended as a substitute for professional legal advice. For your specific situation, please consult the appropriate legal professional. Some photos depict fictional scenes. Prior results do not guarantee a similar outcome. Percentages of fee(s) are computed after deduction of costs, disbursements, and other litigation expense. If no recovery, expenses of litigation, including court costs and disbursements, are payable.

# Enjoy a safe night of trick-or-treating

Halloween is a fun holiday for children of all ages! If your kiddos are going out for trick-or-treating this year, it is important to remind them to stay safe while collecting candy and handing out scares.

One of the best parts of Halloween is seeing all the kids in their costumes. Whether scary or cute, all costumes should fit properly and not hang too close to the ground. A cape that is too long, for example, can pose a tripping hazard. Comfy shoes are a must for any trick-or-treater. It will be a long night and comfy shoes will make the experience a whole lot better. Ideally, a child's costume should be brightly-colored, or at least be decorated with bright or reflective material. Flashlights and glow sticks also help to make children visible to passing motorists. If you buy a costume from a store, make sure it is made of flame-resistant material.

Before the kids head out, remind them to be safe pedestrians. It is best to stay on the sidewalk whenever one is available, to walk, not run, and to avoid "popping out" from between parked cars. Most drivers slow down and pay attention on trick-or-treat night, but there will always be those who are driving distracted or too fast. Better to be a defensive walker than risk an accident.

Finally, when the kids return with their big bag of candy, it is important to go through and remove any items that are unwrapped or have broken seals.

