

New York Injury Times

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Learn Why Most Callers To A Lawyer's Office Don't Have A Valid Case

Great Neck, N.Y.

"I don't know if I have a case..."

"But the doctor didn't give me the right medications," said the patient.

"The nurse didn't tell the doctor that I had chest pain..."

"I'm not calling because I want money..."

These comments are heard every day by people calling the office to ask whether they have a potential case. Most people call because they want to know what happened to them. There's usually a void of information that leaves many patients bewildered, especially when they feel they've been injured.

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**"YOUR CANCER
IS GONE!"**

Gerry's New Story continued...p. 3

Come see what all the fuss is about. I guarantee there's something there for you.

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In This August 2006 Edition, We Look At

WHAT A LAWYER LISTENS FOR WHEN YOU CALL FOR THE 1st TIME

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That bewilderment changes to anger and frustration with each passing day without answers to questions, such as "Why did I need this surgery?" "How come this wasn't done for me before?" "Why do I need this procedure?"

I find it helpful when talking to potential clients to ask them three key questions: (1) What do you think was done wrong? (2) What happened to you because of the wrongdoing? (3) What problems do you have now because of the wrongdoing?

These three questions and answers tell me in only a few moments whether there's a potential case. (I should point out that 18 years of being a medical malpractice lawyer certainly help me evaluate a potential claim on the phone.) Keep in mind that the phone consult is just the 1st step in the course of evaluating a potential case.

Most people that call don't meet the strict criteria necessary to proceed with a full investigation and prosecution of a lawsuit. Many times callers actually become upset when I tell them I cannot handle their case. Some are offended, "What do you mean I don't have a case? He didn't give me the right treatment!" is a common statement. Many people, despite explaining it in detail, don't understand that even



though there might have been some wrongdoing, unless that wrongdoing caused injury, and the injury is significant and permanent, it becomes impossible to prove a successful case.

What I find fascinating is that most people are starving for information about what happened to them, and what was done to treat them.

I just saw this first-hand the other day when I went to visit my brother in the hospital. His doctor came in, asked him "How are you feeling?" "O.K." was the response. The doctor put his hand on my brother's belly for all of 3 seconds, and said, "You'll have an MRI later today, bye." That was it. That visit lasted not even two minutes.

I wrote a report not long ago titled "Medical Malpractice: Why Most Victims Don't Recover A Dime" which explains in detail why the title is true. So here are a few tips that I use when I speak to someone on the phone about a potential new case:

(1) An ability to tell the lawyer what happened.

If the victim can't talk or he has little memory of the events, then the lawyer needs to speak to a family member who might have more information.

It's ok if the victim can't recall what happened. The lawyer can usually put the pieces of the puzzle together with medical records and other witnesses. However, if the injured victim can talk but can't articulate why they think something was done wrong, proving a case becomes much more difficult.

Also, if the victim can't describe what injuries they suffered as a result of the wrongdoing, it becomes impossible to prove a successful case.

(2) An ability to listen.

Your malpractice lawyer needs to know specific information. He will ask



you a series of questions that establish basic information such as "How old are you," "What do you do for a living," "What do you think the doctor did wrong," "What permanent injuries do you have from the wrongdoing," "Has any doctor criticized the care you received from your other doctors?"

There are some potential clients who keep talking and simply don't want to hear what I have to say. For those people, I know at the outset that dealing with them will be difficult.

(3) An ability to ask questions.

Most people who call a lawyer for help have never been in that situation before. That's why they're calling for help. It's natural for a victim to have questions about the legal system, legal fees, how lawsuits work, and what their chances for winning their case are. The more inquisitive they are, the better informed they'll be.

(4) The potential client who continually asks "What's my case worth?" is usually the type of person who will live for their case, as opposed to living their life. What do I mean?

There are people who live their lives and try to restore their dignity by going back to work, or improving their lives despite their disability. There are others who are content to sit home and watch TV until their lawsuit is finished.

From a lawyer's perspective, a person who makes every effort to overcome their disability tends to generate much more sympathy than someone waiting for their ticket to be punched. When you make that call to a malpractice lawyer, keep in mind these tips, and you'll have a much smoother experience than you might otherwise have had.



"YOUR CANCER IS GONE!"

continued from July 06 newsletter...

"Listen, I've got an idea...tell me what you think about it...it may sound crazy, but we have nothing else to go on."

"I'd like Jimmy to come visit me tomorrow at the hospital. I'm going to bring him with me when I visit my patients. I'm going to introduce him as my assistant, and I'm going to ask him to hold their hands, as a sign of support. OK?"

"Sure. Do you want me to call him, or will you do it?"

"I'd like you to do it, and have him meet me at 6:00 a.m."

"Uh, Vinny, you don't know my husband. He doesn't get up for anyone, much less the kids at 6:00 a.m. You might be better off if you try 8:00 a.m." "OK, 8:00 a.m. it is. Thanks."

The next day, Jimmy Changa met with Dr. Vinny Basta at the Gold Coast Hospital.

"Hey Jimmy! How are you buddy?" exclaimed Dr. Basta.

"Doing great Vinny. Say, how about we go bike riding next week...the weather should be beautiful," replied Jimmy.

"Let's do it," answered Dr. Basta. First though, I want you to put on this white lab coat. Here's my stethoscope. Put it around your neck. You're going to come on rounds with me while I see my cancer patients. I'm going to introduce you as one of my assistants. I'd like you to shake hands with each patient while I talk to them, and hold their hand while

I'm talking to them," said Dr. Basta.

"But why?" asked Jimmy.

"I'm not exactly sure, but I want to do an experiment," answered Dr. Basta

"By the way, did Allison explain my experiment to you?"

"No, she simply said if I meet you this early at the hospital today, then she'd have no problem with me spending an entire day going bike riding with you next week! She'll have to watch the kids all day," replied Jimmy.

"O.K. then. Let's get to it. I'll explain it all later," said Dr. Basta

So, one by one, Jimmy was led by Dr. Basta to see each of his eight patients who were currently in the hospital after having had surgery or radiation therapy to treat their cancers. In each case, Jimmy was introduced as Dr. Basta's assistant and he was here to comfort them while Dr. Basta examined and spoke with each one. In every instance, Jimmy held the patient's hand for a minute or two. By the time they saw the last patient two hours had gone by.

"Can I go now, Vinny?" asked Jimmy.

"Sure thing pal. Hey, next weekend, look to go for a long bike ride!" said Dr. Basta.

"Excellent. See you then," answered Jimmy Changa.

When Dr. Basta got back to his office, he told his secretary he wanted to see the chief resident assigned to each of his patients. Ten minutes later, two chief residents assigned to the gyn oncology division for a three-month rotation were cowering in his office. They knew this couldn't be good. They knew that Dr. Basta had a reputation for screaming and yelling at incompetent doctors in training. What they couldn't figure out was what they or their fellow residents did to require an immediate summons to the Chief's office.

"Doctors...I have eight patients in the hospital as of right now. Starting tomorrow morning I want the following tests performed on each of my patients. All testing must be done and completed tomorrow. I want a

full-body CAT scan and an MRI scan for each of these patients. I want x-rays of the primary cancer location for each patient. I want blood work. Then at the end of the day, I want you here in my office with every one of the CAT scans, MRI films and x-rays for each of my patients. Make sure you bring all of the patient's prior films from the day we first started treating them. I also want the Chief of Radiology and two of his best residents here when we review all this. Now, make sure this happens. I don't want any screw-ups, do I make myself clear?" commanded Dr. Basta. "Yes, sir. No problem sir. We'll take care of it, sir," answered the chief residents with curious looks on their faces. Dr. Basta still hadn't told them why he wanted all of these tests or why he wanted the radiologists to review the records.

THE NEXT DAY:

It looked like a battlefield in the Chief's conference room. X-rays, CAT scans, MRI films, and medical charts were piled high throughout the room. The Chief was in battle mode, his lab coat off, his sleeves rolled up, his tie loosened. The look on his face was one of caution, but expectant glee. He gave his orders.

"Gyn Chief resident #1: Let's start with Mrs. Bloom. I want radiology resident #1 going through the films with you. I want your opinions and findings- out loud please, gentlemen! Chief of Radiology, I want you to re-review everything the gyn and radiology residents review. I want your opinion, out loud too. Concur, or disagree and why. Then I want to look at each of the films you've reviewed.

One by one, film by film, each group of physicians gave their opinions. Comparisons were made with the prior diagnostic films. Questions were asked, but Dr. Basta asked them to hold off all questions until every patient's records were reviewed. There were no hesitations. The gyn doctors in training were exact in their

words. The radiology residents did not waver. The Chief of Radiology was even more precise. Dr. Basta himself concurred with each of the opinions by each of the physicians in the room.

“There is no cancer!” whispered Dr. Basta. “Anywhere! None of the films and tests taken today show any evidence that these eight patients have cancer! Astounding!” commented Dr. Basta further. “Yesterday, each of these patients had significant gyn cancer. Today, they’re cancer-free! Oh My God!”

Dr. Basta ordered the gyn and radiology residents to maintain total secrecy about this experiment and told them they’d learn more in the coming weeks. The Chief of Radiology was more curious. “Tell me Vinny, how a patient with Stage IV ovarian cancer yesterday can be totally cancer free today?” Asked Dr. Singh, a man with 32 years of radiology experience under his belt. “I’m not sure Singh-Singh, but this is very significant, and I’m going to find out,” answered Dr. Basta. With that last comment, he waved off Dr. Singh, and as soon as the door closed, he picked up the phone to call Allison Abby.

“Abby, its Vinny...you’re not going to believe what’s going on!” exclaimed Dr. Basta. “What’s going on?” inquired Dr. Abby.

“Remember that little experiment I did with your husband yesterday? Well, he and I are going bike riding next week- for the whole day. But that’s not why I called. It turns out that every patient that your husband touched is now cancer-free.

Every one of my patients had advanced gyn cancers. Now, they have no evidence of cancer at all,” remarked Dr. Basta with a big grin.

“What??” asked Allison incredulously.

“It’s true. I spent the last 6 hours with the Chief of Radiology, two gyn chief residents, and two radiology chief residents. We went through every single film possible that was taken today, and compared them to all old films and records. Not a single patient has any cancer. IT’S A MIRACLE Allison!” yelled Dr. Basta. I’m ready to discharge each of them. I want to, but I can’t yet. I still need to evaluate them tomorrow. This is incredible. I’ve never seen or heard anything like this. Do you have any idea what this could mean?” asked Dr. Basta rhetorically.

“Hold on Vinny, are you suggesting that my husband can cure cancer by holding someone’s hand?” asked Allison, who was by now beyond belief.

“That is the immediate conclusion I have drawn from this experiment. Is this a controlled experiment? No, not yet. But it will be. My God! Just think what this would mean if your husband could cure cancer simply by holding someone’s hand!” answered Dr. Basta.

At the end of the week, Vinny Basta and Jimmy Changa went for that promised bike ride through the Gold Coast of Long Island. They traveled through Brookville, Oyster Bay, Bayville, Glen Cove, Syosset, and Locust Valley and even made their way past Teddy Roosevelt’s home on Sagamore Hill. The weather was a beautiful cool 65 degrees. The trees were changing color. There was no wind, and it was a clear, blue sky.

What a perfect day for a bike ride, and a perfect day to discuss miracles.

While traveling east on Northern Boulevard in Brookville, going about 20 miles per hour, on an empty Sunday morning, Vinny Basta leaned toward Jimmy on his bike and asked, “Say Jimmy, did Allison ever talk to you after our experiment the other day at the hospital?”

“No, we never had a chance to discuss it. We were busy helping our kids do homework, taking them to after-school activities, getting them to bed- you know, the usual stuff, that we simply didn’t even have a chance,” replied Jimmy.

“Well, I want you to know that something incredible happened to each of those patients whom we visited.” Jimmy looked expectantly at Dr. Basta.

“Every one of those patients is now cured of their devastating cancer,” stated Dr. Basta.

Jimmy had a look of not understanding what Vinny was saying. “They’re cured. Cancer’s gone! They all went home,” remarked Dr. Basta.

“What do you mean their cancer’s cured? Didn’t you tell me that most of those patients have incurable cancer?” asked Jimmy.

Tune in next month when we continue our new story! 

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