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Can I ask defendant's medical expert if he's ever testified for an injured patient?

In a medical malpractice case, when the defense medical expert is up on the witness stand and I am cross-examining him, am I permitted to ask him whether he has ever reviewed cases or testified on behalf of an injured patient? You want to know the answer? Come join me for a moment, as I share with you some terrific information. Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney practicing law in the state of New York. The answer is, yes I can. Want to know why? It's because when I'm cross-examining a medical expert, I have an opportunity to ask him questions that are not directly focused on this particular case. I don't have to stick to the facts of this case. I'm permitted to ask him questions having nothing to do with this particular case.

That's known as a collateral attack. If I know, at the beginning. If I know from doing my research that this doctor has never reviewed records for an injured patient, now I'm going to use that as ammunition to show to the jury that this doctor is biased, no matter what his credentials are. Imagine that. Doctor, you're telling this jury that in 20 years of coming into court and testifying as a medical expert, you have only testified on behalf of a doctor, isn't that true? Yes it is. You're saying that you have never, ever testified on behalf of an injured patient, correct? And you know what the doctor's going to say? Oh, but I've never been asked.

Really? Well, 2 weeks ago, doctor, didn't you get a call from me asking if you would review a case on behalf of an injured patient that I had. Oh I don't remember that. Really? Well, I spoke to your secretary and her name was this, and she told me specifically that you had a policy that you never, ever review cases on behalf of injured patients. Isn't

that true? Now I'm going to continue going after the doctor, attacking him on the fact that he does not review cases for injured patients. You would think that the jury, understanding this, even if the doctor is a great doctor and has great credentials, clearly he's going to look as if he's biased. Why? Because he's only focused on trying to protect the doctor.

He's not trying to be fair and impartial by saying, "Yes, I'll review cases for injured patients. I'll review cases for doctors and hospitals. I don't care what my opinion turns out to be. I'll come in and testify, no matter who hires me." That shows a more balanced approach. When a doctor turns around and says, "No, I've never reviewed a case for an injured patient," or, "Nobody's ever asked me," well I'm going to make sure doing my research that I contact the doctor to see if he'd be willing to review a case on behalf of an injured patient. Now, if he turns around and says, "Nobody's ever asked me," I'm going to use that to contradict exactly what he just said.

Why do I share this great information with you? I share it with you just to give you a sense of what goes on in a medical malpractice case here in the state of New York. I recognize that you're likely watching this video because you've questions or concerns about your own particular matter. Well, again, if your matter did happen here in New York and you're thinking about bringing a lawsuit, but you have legal questions that you need answers to. What I invite you to do is pick up the phone and call me. I can answer your legal questions. This is something I do every single day and I'd love to talk to you. You can reach me at 516-487-8207, or by email at Gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a great day.