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Did you know your pretrial testimony can be used against you at trial?

Did you know that your pre-trial testimony in your accident case or your medical malpractice case or wrongful death case can be used against you at the time of your trial? You want to know why and how they do it? Come join me for a moment as I share with you exactly how and why.

Hi I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney practicing law here in the state of New York.

When you bring a civil lawsuit seeking compensation for all the harms and injuries and losses you suffered because of someone else's carelessness, during the course of your lawsuit, the defense will have an opportunity to question you. To learn what happened and why and learn what injuries you have now as a result of whatever was done wrong. That pre-trial testimony carries the same exact weight as if you are testifying at trial. The only difference is it's occurring during the middle of your lawsuit. It's occurring in your attorney's office. It's occurring with a court reporter present to take down all the questions and all the answers that are given but there's no judge there. There's no jury there. So now what happens? You think it's pretty informal. Well it is somewhat informal but the problem is, the answers that you give to the questions are your testimony and now that's recorded so later on when your case ultimately gets to trial, the defense attorney will ask similar questions. He will show to the jury, that there are contradictions between what you have said at the time of trial and contradictions with what you said during your pre-trial question and answer session known as deposition.

Here's one way you can use it. The defense attorney's going to open up that transcript and say, "Mr. Jones, isn't it true you gave pre-trial testimony one year ago on this case?"

"Yes I did."

"In fact I had an opportunity to ask you questions on this [case 00:01:41], correct?"

"Yes."

"And you were there with your attorney, isn't that true?"

"Yes."

"And you swore to tell the truth, isn't that true?"

"Yes I did."

"And on that date on page 77 line 3 I asked you this question. And did you give this answer, Mr. Jones?"

"Yes I did."

"You've testified in this case that when I asked you the same question, you said something totally different, isn't that true?"

"Yes."

So now the defense attorney is showing the inconsistencies that contrast between what he's said in court at trial and what he said a year ago during his pre-trial testimony. So an attorney can always use pre-trial testimony to try and contradict what a witness has said at the time of trial. That's a key element of cross-examination and it's a critical way to use prior testimony to share to the jury that somebody's being less than truthful.

So why do I share this quick information with you? You know I share with you just to give you an insight and understanding into what goes on during the course of a civil lawsuit involving accident matters, wrongful death matters, and medical malpractice matters here in New York. I recognize and acknowledge you're watching this video because you likely have questions or concerns about your own particular matter. Well if your matter did happen here in New York and you're thinking about bringing a lawsuit but you have questions that need answers, what I invite you to do is pick up the phone and call me. I can answer your legal questions. You know this is something I do every single day and I'd love to chat with 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.