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## Doctor admits malpractice if facts are true

The doctor admitted to me during pretrial testimony that if the facts that we describe were true, then his treatment would represent a departure, a violation from the basic standards of medical care. Come join me for a moment as I share with you some great information.

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. It's a medical malpractice case. Now during the course of the litigation I had an opportunity to question the doctor that my client was suing. During the course of questioning I have an opportunity to ask him hypothetical questions. "Doctor I want you to assume that the following facts are true." Now I will give him a list of facts. "Assuming those facts to be true would you agree that by doing X, Y and Z," which is exactly what he did, "that that would be a departure, a violation from the basic standards of medical care?" He looked at me, he looked at his attorney, he looked back at me, he said "Yes I would." Then I said, "Tell me why doctor?" Now he proceeded to explain how that treatment in light of the fact that we described assuming them to be true would in fact be incorrect medical care and treatment.

Then I had follow-up. I said "Doctor, would the patient had suffered injury if this were done?" "Yes she would." "What type of injury would you expect to see?" Now he went ahead and laid out exactly the type of injury. Then I will ask additional hypothetical questions going down the line about facts that we believe are true, that we believe are supported by the medical records as well as other testimony in this case. It's critical for me as the attorney who presents the injured victim to ask the doctor hypothetical questions.

That now at trial a year or two later, now when we put on our proof, when we show to the jury all the testimony and the evidence that we

have to support our claim. If the jury believes what we have put on to support our claim, now I have the doctors own words. If the jury recognizes and believes our version of the events I can show to the jury, "Ladies and Gentlemen, assuming that these facts are true, that you believe them to be true, that they took place, the doctor who we have sued in his own words acknowledges and admits that that treatment was inappropriate." As a result of that inappropriate treatment cause injury and that the injury was significant or permanent.

That is the goal of an attorney who represents an injured victim. To be able to use the doctors pretrial testimony. To show to the jury once they believe that our facts to be true, now it leans greater credibility and greater weight to what it is that we're claiming, for the jury to acknowledge and recognize yes you're entitled to a verdict because the doctor has acknowledged that he did was inappropriate.

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 realize you're watching this 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 law suit but you have legal question, what I invite you to do is pick up the phone and call me. I can answer your legal question. This is something I do every single day and I'd love to talk to you. You can reach me at 515-487-8207 or by email at [Gerry@Oginski-Law.com](mailto:Gerry@Oginski-Law.com). That's it for today's video. I'm Gerry Oginski. Have a wonderful day.