

New York Injury Times

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Gerry Oginski, Trial Lawyer

SPECIAL EDITION

"Read What
Happened To Gerry
When a Woman
Failed To Look As
She Opened Her
Car Door..."

NEWS HEADLINES...Read them daily on our website. Our site has been called "A news junky haven for lawyers and consumers," because of *relevant* news stories relating to medical malpractice and injury law. The headlines are listed here on page 4. The stories can be found at www.oginski-law.com

FREQUENTLY ASKED QUESTIONS... We now have 158 commonly asked questions about lawsuits posted on our 'Questions' section of our website. This page is our most popular on the website. People want to learn, and this allows them to read about these topics at their own convenience, on their own time.

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In This Early Summer Edition, We Look At

BICYCLE ACCIDENTS

It was Monday at 6:05 p.m. when I was finishing up the last leg of my bicycle ride. It was 54 degrees outside and was raining intermittently. Nevertheless, I needed to go for a ride, knowing that I would be safe and careful during the entire trip.

All went well for the majority of the ride. I traveled through Kings Point where the trees were in bloom. The rain drops were hitting my day-glo bright orange



bicycle pants. The wind was rejuvenating through my bicycle helmet ventilation system. The excitement of pushing two pedals up and down repeatedly was invigorating. The scenery was magnificent despite the cloudy, overcast and slightly cool day. Being an experienced bike rider I can tell when it's a good day for biking and when it's not. Today, despite the minimal weather, it was still a good day for a short ride. Little did I know what awaited me as I headed back through the center of town into Great Neck.

As I pedaled South on Middle Neck Road, the main strip of road through the center of Great Neck, I marveled at the number of stores that opened like the blooming tulips in the Spring, and shortly thereafter wither away and close for lack of steady business. Middle Neck Road is a street usually teeming with car traffic, especially during rush hour at 6:00 p.m. In most parts of Great Neck



it's a two lane road with two lanes of traffic in each direction. At some points the street narrows and only can accommodate one lane of traffic in each direction. The entire length of Middle Neck Road is extremely commercialized and parked cars can always be found on both sides of the street at parking meters.

I had just passed Cedar Drive near the police station. I was heading straight intending to go to the Chinese restaurant to pick up dinner for my family, only two blocks away. When I ride in the street, I always ride *with* traffic, as I'm supposed to do, and as close to the parked cars as possible, to avoid the traffic in the street. I was pedaling at 12 miles per hour with excellent visibility on a slight upgrade. There were no cars behind me as I entered the main section of town. Nor were there any cars pulling out of their parking spot.

In a split second, right in front of me, I saw an arm fling open the driver's side door of a parked Toyota. The woman who threw open the door



never looked behind her to see if anyone was there. Had I been driving a car, I would have effortlessly torn off her driver's door and seriously injured the woman whose arm had just carelessly flung open fully the driver's door. Unfortunately for me, I wasn't in my car. I was on my bike. The momentum of the moving door together with the impact of the edge of the car door with my right leg was devastating. The door opened directly in my path. I had nowhere to go. The car door flung out so quickly that it threw me and my bike directly into

the center of the road. My forward momentum was no longer straight. Instead, I was now diverted with extreme force right into the middle of traffic of an extremely busy road. My bike, which until that moment had been able to propel me down many a street at comfortable speeds ranging between 15 to 30 miles per hour, now became suddenly immobile.



As with any accident, when you stop a moving vehicle suddenly, the people inside the car or train or bike still continue to move forward at the speed at which they were traveling at the moment of impact. When that person comes into contact with a fixed immovable object, that's when injury occurs.

My bike stopped still. I didn't. I went flying over the handlebars with no place to go but forward and down. My arms flew out in front of me to brace the impact with the ground. Only days later did I remember that you are never supposed to put your hands or arms out in front of you to break your fall, because that results in fractured wrists, and arms. Instead, bike riders going over the handlebars are reminded to try and roll with their momentum and roll over, like a tumble-salt you did when you were a kid (without hitting or bending your head or neck). The problem is that when you're in the middle of a shattering impact between steel, metal and glass, you have no time to think about what you're supposed to be doing, only why you're now lying on the ground in the middle of the street that cars are currently using.

Luckily for me there were no cars directly behind me. If there were, I

probably wouldn't be writing this account of what happened to me, rather, one of the obituary reporters probably would. I didn't hit my head, nor did I lose consciousness. I do remember very clearly letting out loud streams of curses directed mostly toward the middle aged woman who had opened her car door without the slightest of cares. I didn't notice it immediately, but there were two women who witnessed the collision of the car door with my moving form.



The look of shock on their faces told volumes about what they just saw, without either of them saying a word. One woman proclaimed "Oh my God! I've never seen anything like that! You just flew over your bike when she hit you with her car door." The woman who opened her car door, to her minimal credit, immediately came over and apologized profusely, not once but multiple times. I got up from the street within moments and began limping horribly to the sidewalk where I tried to gather my wits and see if all of my bodily parts were still attached. They were. But I noticed immediately burning and stinging in various parts of my body including my right leg, both my arms, and my left shoulder. What made matters even worse was that I was trying to convince myself that despite this impact I was totally fine even though it was obvious to everyone at the scene that I couldn't walk very well. I happened to glance toward the street while taking stock of body, that I noticed my bike was smack in the center of the road, blocking all traffic in the southbound lane. I hobbled over to my bike and gingerly carried it to the sidewalk.

To a biker, a trusty bike is worthy of trust and respect. It gets you from point A to point B with little

or no problem. If properly maintained it will take you places you've only dreamed of. A broken bike can probably be as upsetting to a biker as their own physical injuries. In any event, it's just a bike, and like every material item we own, can eventually be replaced. We, as people, cannot.

Both witnesses volunteered to call an ambulance or the police (the station was literally 30 yards away). I declined, still opting to convince myself that I was alright. My hands moved, I was conscious, I could feel and I could talk. I knew I was bruised and banged up, but didn't feel I broke anything major. My right thigh, also known as the femur- the longest and strongest bone in our bodies, didn't act or feel as if it was broken. I assumed that if it was broken, I wouldn't be able to walk at all and would be in excruciating pain.



One of the witnesses suggested I see a doctor right away- good advice, but I still had to get dinner home to my family and still convince myself I was ok. This same witness also suggested I obtain the woman's insurance information in case I decided to file a claim. I now looked at the car for the first time. It was a red Toyota convertible, two-door. The woman with dirty blond hair hesitated and instead offered to pay me for my troubles right then and there. Still not being able to fully comprehend what was happening, I was about to open my mouth to let her know what I do for a living when the witness blurted out, "Oh no! Don't you let her get away with that! You might have some significant injury that you don't know about yet and by taking her money now you'd be doing a terrible thing." I looked from one woman to the next to the next. Three women in all. Two

were witnesses, the other, the careless woman who caused me to be in a slightly perplexed state. I finally figured it out. She wanted to buy me off right there. She even asked to see my leg and asked me to roll up my pants. The other witness said "You're not a doctor, what good would that do?"

When I came to my senses, I finally told my audience what I do for a living. "I'm a personal injury and medical malpractice attorney," I said. The red Toyota woman dropped her mouth in shock. The eyewitness expressed shock as well. "Well how about that? You hit the worst person you could ever expect- a personal injury attorney." I collected the Toyota woman's information, then looked her straight in the eyes and said "I could understand if this was my fault. But it wasn't. You never looked to see if anyone was behind you when you opened your g*damned door. If you had, you'd have seen me and waited for a moment until I passed you." With that, she again apologized, got into her car and drove away, forgetting about whatever it was that she had gotten out of her car to do in the first place.



There is a book called *The Kindness of Strangers* that my wife has on her shelf that I never bothered to read. I mention it only to contrast my years as a trial attorney representing tragically injured people where I never truly appreciated what happens to a person at an accident scene. The eyewitness, who turned out to advocate for my well-being offered to take me and my broken bike home, without knowing anything about me, or even where I lived. Even more impressive was that she

insisted that we stop at the Chinese restaurant to pick up the dinner my family so eagerly awaited. Finished with that task, this stranger deposited my bruised and injured body to my front door, Chinese food in hand and my bike huddled in the corner without a second thought. All I could say was "Thank you so much for your kindness." Without another word she drove out of my driveway, back to her daily activities while I walked in the front door with a sense of foreboding knowing that my large family would start assaulting me with questions the moment I told them what had happened.

After recounting in detail the events that had just transpired, I showered and hobbled my way downstairs to partake in the Chinese food I had just picked up. I knew that later and even the next few days, I'd feel every bump and bruise where previously there were none. Looking back on this moment in time, I can only be thankful that I wasn't seriously hurt. I will live for another day and long to see the sunrise and the sunset. I

was fortunate today and recognize that when we're injured,



it's not what we have left that matters, but really what has been taken away from us that is most important. That's the true element of damages.

Thanks for being a captive audience.

Gerry

NEWS HEADLINES

(To read the articles go to our website, www.oginski-law.com)

SORRY WORKS! PILOT PROGRAM PASSES ILLINOIS GENERAL ASSEMBLY - MEDICAL MALPRACTICE CRISIS SOLUTION

MEDICAL MALPRACTICE PREMIUMS NOT JUSTIFIED BASED ON CLAIMS- ABOUT.COM

A new study on medical malpractice insurance shows...

CHICAGO SCHOOL, PARENTS SETTLE CHOKING LAWSUIT FOR \$2 MILLION DOLLARS

HEART DEVICE SOLD DESPITE FLAW, DATA SHOWS- NY TIMES

STUDY REPORTS MEDICAL MALPRACTICE PAYOUTS RISE ONLY 4%; DOCTORS GO TO CAP STATES

A TRAGEDY OF ERRORS-NY DAILY NEWS EDITORIAL

MICH. FAMILY OF BURNED BABY GETS \$8.25M

FACE-LIFT PLAYED MAJOR PART IN WOMAN'S DEATH, CITY FINDS

MAKER OF HEART DEVICE KEPT FLAW FROM DOCTORS

JACOBI HOSPITAL HAD HISTORY OF PAP TEST PROBLEMS

7,000 PATIENTS DON'T HAVE TO DIE- NEW YORK DAILY NEWS

VANCOUVER COUPLE AWARDED \$1.6 MILLION AGAINST YELLOW PAGES COMPANY

JURY AWARDS \$2.3 MILLION TO MOTHER OF INJURED CHILD

GERRY OGINSKI'S ARTICLES PUBLISHED ON EZINEARTICLES.COM AS EXPERT AUTHOR

BOSTON PAYS \$5.1M TO DEAD SOX FAN'S FAMILY

HOW MALPRACTICE SUITS KEEP MY PROFESSION HONEST- A NEUROSURGEON'S PERSPECTIVE

THE IRISH PATIENT AND DR. LAWSUIT- THE NEW YORK TIMES

'BOTCH' DOC BACK IN ACTION

QUESTION

Q: In a trial, does the Judge determine how much money I will be awarded?

A: In a jury trial, the jury decides whether you will receive money and if so, how much. The trial judge still has the ability to modify any award that is made by the jury.

In a case that is decided solely by a Judge, then the Judge would make a determination of how much you are to be awarded, if anything.

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The Law Office of Gerald M. Oginski, LLC
150 Great Neck Rd., Suite 304
Great Neck, NY 11021

516-487-8207

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