

Do you cross-examine a child the same way you would cross-examine a medical expert in a medical malpractice case? You want to know the answer? Come join me as I share with you some great information. Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury trial lawyer practicing law in the state of New York. The answer is of course not. So, let's say the defense attorney brings in a child as a witness. In most instances, when the defense calls a child - or even if we call a child to the witness stand - in all likelihood the judge is not going to have them place their hand on the Bible and now swear to tell the truth. Many of these kids, especially at a very young age, don't even know what that means. But the judge may turn to them and say, "Listen, do you promise that you're going to tell the truth?" "Sure." Well, they don't truly understand that, especially at a very young age. So now, if there's some particular reason why this particular child has to come in and give some type of testimony, the attorney who goes up to cross-examine that witness, that child, there's no way a good attorney is going to be aggressive when questioning a little child. Let's say it's a teenager who now comes in to testify. In that instance, that teenager will have to swear to tell the truth. And now, we may get a little more aggressive depending upon the stance that they take or the position and the testimony that they give. It all depends on the age of the witness as well as what information they're trying to give out. If it's a young kid, if it's five, six, seven, ten years old even, there's no way a really good attorney is going to turn around and get aggressive. You know why? The moment an attorney gets aggressive with a young child, the jury will take it out on me! They'll take it out on my client! And there's absolutely no reason for that. And by the way, you should know something really important about cross-examination. It does not mean angry cross-examination. It does not mean aggressive questioning. Some people are so fixated on the fact because of what they see on TV or in the movies, that when an attorney gets up to cross-examine a witness, it means they have to go for the jugular. It means they have to attack, and attack, and attack! Well, guess what? Not all cross-examination involves angry questioning and that's a key distinction. And you'll see really good attorney in New York who understand that concept, especially when it comes to questioning a child. So why do I share this quick information with you? Because there are some instances where a child will have to testify, and now an attorney has to get up and decide, first of all, whether to cross-examine and if he does, he's certainly not going to be aggressive about it. You know, I realize you're watching this because you have questions and concerns about your own particular matter. Well, if your matter did happen here in New York and you do have legal questions, what I encourage 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](mailto:Gerry@Oginski-law.com). That's it for today's quick video. I'm Gerry Oginski. Have a great day!