

When cross-examining a witness at trial, should you expect the witness to break down, cry “uncle” and simply give up? You want to know the answer? Come join me for a moment as I share with you some great information today. Hi, I’m Gerry Oginski. I’m a New York medical malpractice and personal injury trial lawyer practicing law here in the state of New York. Today is the day after Thanksgiving, it’s a beautiful cold day. My wife is out shopping, it’s Black Friday, so I have a few minutes to share this great information with you. Now, when I’m cross-examining a medical expert in a medical malpractice case for example, can I expect a witness to break down in tears and admit and acknowledge that we are absolutely right? You know, we see this all the time in the movies. We see it in dramas on TV, where the attorney is aggressive, he’s obnoxious, he’s pounding the witness. Finally, after a withering cross-examination, the witness breaks down and admits everything that happened. Well, guess what? In reality, it doesn’t happen like that. In the movies, cross-examination tends to be a very aggressive focal point of the entire movie. It’s typically the pivot point where things dramatically change. Well, I will share something with you. In reality, in New York, in a car accident case, in a medical malpractice case, in a wrongful death case, cross-examination is critically important but it doesn’t mean you have to be angry, it doesn’t mean you have to yell and scream. Cross-examination does not equal angry examination. Cross-examination is really a search for the truth, to ask leading questions. You have an agenda. I have to tell a story and now merely getting the witness to either agree or disagree or say they can’t answer the question. So cross-examination is rarely, if ever, going to wind up where the witness on the witness stand goes ahead and admits and acknowledges everything that we’re claiming. However, one of the key agendas that I have when cross-examining a witness is to get that witness to acknowledge and admit certain key points. “Doctor, would you agree that the standard of care in this situation is X, Y, and Z? Would you agree that it would be appropriate for a doctor in this situation to do this? Would you agree that it would be appropriate to do this?” And now I take the doctor through a series of steps. Why? Because I want him to agree and acknowledge that this is the basic level, the basic standard of care. Now, once he agrees that that’s the standard of care, I can then turn to the actual facts in this case and say “Doctor, I want you to assume that in this case, Dr. Jones did not do A, B, and C. Would you agree that would be a violation from the basic standard of medical care?” And now I’ll take him through that series. He’s either going to agree, disagree, or claim that he can’t answer those questions. So why do I share this great information with you? I share it with you just to give you an insight and an understanding into what goes on during cross-examination here in the state of New York. You know, I realize you're watching this because you have likely have questions or concerns about your matter. Well, if you’re contemplating bring a lawsuit about your matter 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. You know, 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 quick video. I'm Gerry Oginski, have a wonderful day.