

Your honor, I ask that you give the jury a missing witness charge. You want to know what a missing witness charge is and why it can be critically important? 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. It's a beautiful day today here in Great Neck. It's a little bit chilly. It's about a week away from Thanksgiving and I want to share this great information with you. So now, during the course of a trial, it doesn't matter if it's a medical malpractice trial or a car accident trial or a wrongful death trial. If the defense has a witness that they have not brought in, a critical witness. So let's say, for example, it's a car accident case and the defense had hired a doctor to go ahead and examine the injured victim. That's known as what they call an independent medical examination and it's far from that. But let's say the defense hired a medical doctor to go ahead and examine the injured victim and now during the course of trial, we're talking about my client's injuries. And now the defense has an opportunity to bring in the doctor to talk about my client's injuries and dispute the severity of those injuries. What happens if the defense, for a number of reasons, does not bring in their medical expert to testify and simply relied on cross-examining the doctors that we brought in to testify? Before we give closing remarks and before the judge gives the jury legal instructions on the law in this particular case, we now have an opportunity to ask the judge to give specific legal instructions. One of these instructions is missing witness charge. Now what does that mean? A missing witness charge means that the jury can infer that the reason why the defense did not bring in their expert is because he would hurt their case. That's a very important inference because now the jury can infer that the entire reason why they did not bring this doctor into court to testify was because they knew it would hurt their case. And so they can now infer that that's what would have happened. So having a missing witness charge is critical and obviously the defense is going to argue against that because he knows how significant that can be. So now the same thing can apply to us. If we have a doctor who is treating the injured victim and now we don't give a good explanation or a reason why we did not bring this expert in to testify, now the defense is going to use that missing witness charge against us. And that can be devastating as well. So why do I share this great information with you? I share just to give you an insight and an understanding into what goes on in the litigation process here in the state of New York. You know, I realize you're watching this because you have questions or 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. 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 fantastic day.