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They didn't want to settle before trial but now they want to

Before we start trial the defense attorney tells me, "They're not offering dime to try and settle this case. They did nothing wrong." Now, during the middle of trial, they recognize things aren't going so well for them. Can they turn around in the middle of trial and come to me and say, "Listen, we'd like to start negotiating and make you an offer." Can they do that? You want to know the answer? Come join me for a moment as I share with you some terrific information. Hi, I'm Gerry Oginski. I'm a New York Medical Malpractice and Personal Injury Attorney practicing law in the state of New York. For two entire years, while this case was in the middle of litigation, the defense did not even want to begin negotiation, and not even offer a dime.

Now the case goes to trial. During the course of trial, the jury see's that one witness is less credible than the other. They don't believe the defense and you could see it on their faces. It's not going well for them at all. Now, during the middle of trial, the defense attorney comes over to me and asks if we can speak outside during a break. Now, during the course of our discussions, he tells me, "Listen, we'd like to make an offer." Do I say, "No, I'm not going to accept your offer. You chose not to negotiate before trial. You forced us to go to trial. Now we are in a position where we are doing really well and we run the risk of getting a significant verdict in our favor. Now you come begging you want to try and settle this case?"

What do I do at that point? You want to know what I do? I'd love the opportunity to tell him to his face, "Get out of here. We'll let the jury make a decision about whether or not we're entitled to a verdict." I can't do that. You want to know why? I have an obligation to my client to do what's right and what's best in her interest. Even though I want to go ahead and tell the attorney, "Listen, keep your settlement offer. We're going trial. We're in the middle of trial. Let's let the jury

make a decision about whether we're more likely right than wrong, and if so, let them put a value on this case." I can't do that. You want to know why? It's because, going to trial and taking a verdict is a significant risk. I can only do that if my client accepts that risk, if she's willing to go ahead and let that jury make that determination. The problem is, the jury may come back with less than what the defense is offering. They may come back and say, "We don't have a case," even though we believe, in the middle of trial, that we have a great case.

There are many different outcomes that can occur when the case goes to a jury verdict. Since it's unknown what is likely going to happen, I now have to present all of the options to my client. I have to tell her about the defense's offer. I have to tell my client my best legal advice about whether or not this settlement offer is appropriate, and whether or not I think we can obtain more money, either by further negotiations, or by letting a jury decide. What does she do? She now has the opportunity to make that choice after I've told her and educated her about all the risks and the benefits of each individual option.

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 can happen during a civil lawsuit here in New York involving an accident case, or medical malpractice case, or even a wrongful death case. I realize you're watching this video because you likely have questions or concerns about your own particular matter. If your matter did happen here in New York and you're thinking about bringing a lawsuit but you have questions that need answers, what I invite you to do is pick up the phone and call me. I answer questions like your every single day and I'd love to chat with you. You can reach me at 516-487-8207, or by email at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a fantastic day.