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## This Strategy Backfired on Me...Big Time!

I want to share with you a trial strategy that backfired on me and failed miserably at trial. You want to know what it was? Come join me for a moment and I'll share with you exactly what happened.

Hi, I'm Gerry Oginski, I'm a New York medical malpractice and personal injury attorney, practicing law here in the state of New York. This is a medical malpractice case that went all the way to trial, and during the pre-trial process I learned that the doctor we were suing failed three classes while in medical school and had to repeat an entire year all over again. That was great information for me.

My strategy at trial was to show to the jury that this doctor failed three of his medical school classes, and as a result had to take an entire year all over again. Why would I want to do that? Because I wanted to show and explain to the jury that this impacted the doctor's credentials; it impacted the doctor's knowledge. Even though this guy had been in practice for 20 years, and even though he was board-certified as an orthopedist, I still was entitled to show to the jury that this doctor had a deficiency in basic medical knowledge. I brought that information out, and I also showed to the jury that when I questioned the doctor, I said, "Doctor, what three classes were they that you failed?" You know what he said to the jury? "I don't remember."

"You don't remember? You needed to take an entire year all over again in medical school because you failed three entire classes, and you're telling us that you don't remember which three classes they were?"

The doctor proclaimed that he had no clue, that he totally forgot. It was totally unbelievable that the doctor didn't remember which three classes it was that he had failed, and had caused him to take an entire year over again. I argued to the jury that that was utter nonsense, that anybody going through a professional school that now had to add an extra year onto their training, that clearly was nonsense and clearly was untruthful. You know what the jury said? They didn't care. They didn't pay any attention to it. More importantly, they didn't believe my client was more likely right than wrong, than what this doctor did was a violation of the

basic standards of medical care. The bottom line was, they liked the doctor better than they liked my client. That was the bottom line. Ultimately, they determined that the doctor was not responsible for my client's injuries.

Why do I share this story of a failed strategy? I share it with you for two reasons. Number one, I want you to get an insight and an understanding into what goes on in developing different strategies at trial; and number two, no other attorney tells you about the strategies that they use at trial that failed. I thought it would be an interesting story for you. I acknowledge and I recognize 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 first, what I invite 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 chat with you.

You can reach me at 516-482-8207, or by e-mail at [Gerry@Oginski-law.com](mailto:Gerry@Oginski-law.com). That's it for today's video. I'm Gerry Oginski, have a wonderful day.