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Trial judge asks me who are my witnesses who will be testifying?

We are moments away from starting a medical malpractice trial and the judge turns to me and says, "Counselor, which experts are you bringing in to testify?" Now he's going to ask the defense attorney the same exact question. Do I have to tell the judge which medical experts I'm bringing in? Does the defense lawyer have to do the same? You want to know the answer? Come join me for a moment as I share with you some great information. 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.

The answer is, in all likelihood, we're going to have to share that information with the judge. So now, moments before the trial starts, we will be with the judge in his private chambers. Now, he typically wants to learn what's this case about? He also wants to know why hasn't this case settled yet? Now you should know, and here's the irony. Before trial, we are obligated to notify our opponents of which medical experts we have retained and are planning to bring in to court. We are also required to give them the doctors' credentials as well as the doctors' opinions about what they'll be talking about. So now, it's very simple matter of taking the doctors' credentials, plugging it into a computer database to actually identify who this medical expert is. Because we as attorneys never divulge in a malpractice case who our experts are. But with today's computer usage, it's relatively easy to identify who the medical expert is.

Some attorneys will turn around and say, "Judge, I'll be happy to share that with you outside the presence of my adversary," and some judges will allow that. Likewise, the defense will want to do that same thing privately. Other attorneys turn around and said, "You know what, at this point, each side knows privately who the other one is bringing in to testify. Does it make a difference at this point? The only

difference it's going to make is that it's going to validate the other side's research on our expert. Because there may be instances where they'd done their computer research and it hasn't pinpointed exactly which expert we'll be bringing in. Maybe they were confused, maybe they didn't have the correct information. Or they plugged it in wrong, and now it's among a few different experts. So by telling the judge who our expert is, it actually validates for the defense which one of their experts they can now cross off and which one it is. Then they're going to go ahead and do even more investigation to get even more dirt on that particular expert.

So do we have to share that information with the judge? In most cases, you will find that really good trial attorneys will recognize at this point it doesn't matter, the defense knows who our experts are and they will readily share that information with the judge. Other times, the attorney is going to turn around and say, "Judge, with all due respect, I'd be happy to share that information with you privately."

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 into these medical malpractice cases that are approaching and get to trial. You won't find many people that actually talk about the details of what happens in these cases. You know what, I realize you're watching this because you likely have questions or concerns about your own particular matter.

Well, if your matter did in fact happen here in New York and you're thinking about bringing a lawsuit but you 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, that's something I do 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 wonderful day.