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Why is Doctor not in the courtroom each day?

At a medical malpractice trial where you are suing your doctor, why is it that in most cases the doctor you have sued is often not in the court room the most of the trial testimony? Do you want to know the answer? Come join me as I show 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. When you bring a law suit against a doctor who you believe violated the basic standards of medical care, there are many times when the doctor will not be in court each and every day. On the other hand, you as the injured victim will be in court every single day. You'll be listening to all the testimony. You'll be listening to everything the judge has to say. You'll notice that the doctor who you have sued often is not in court each and every day. There's a simple explanation for that. In fact, a defense attorney will tell the judge at the very beginning, "Judge, I just want to let you know, my doctor, the doctor I represent is a practicing physician. He has patients to see. He has surgeries to take care of. He can't simply drop everything in order to participate in this trial. Is that okay with you?" Of course the judge will say, "Yes. That's fine."

Now, on the day that he is supposed to testify he's going to come in, he's going to take off, and now he'll be there that entire day. On the other days, when the doctor is not being questioned by his attorney and not being cross-examined by us, now the doctor is likely practicing medicine. He's in his office. He's in the hospital taking care of patients. A smart defense attorney is going to tell the jury this, during the course of jury selection; and let them know, "Listen, the injured victim is going to be here each and every day. But my doctor is a practicing physician. He doesn't have that luxury. He doesn't have that privilege. So, are you going to hold it against him if he's not here

each and every day?" Of course every one of these potential jurors are going to say, "Oh no, no, no. I'm not going to hold that against him."

Now during the course of trial, they will see, he's not there each and every day. At the end of the trial the defense attorney is likely going to turn to the jury and say, "Ladies and Gentlemen, you made a promise to me at the beginning of this case, that you wouldn't hold it against my client if he was not here each and every day, and I expect you to live up to those promises." If the defense lawyer doesn't give the jury an explanation, the jury is going to wonder, "Why isn't the doctor here? The injured victim is here each and every day. The doctor should be here as well." Once they recognize that he's a practicing physician and has patients to see, they'll get a better understanding of why he's not there.

Why do I share this tidbit of information with you? I share it with you just to give you an insight of what goes on in a medical malpractice case that goes to trial here in New York. I realize you're watching this because you have questions or concerns about your own matter. If you believe a doctor caused you harm, or a hospital caused you harm and you suffered significant injury as a result of that, here in New York, and you have questions that need answers, what I invite you to do is pick up the phone and call me. I can answer your questions. This is 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.