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You suffer a known complication of surgery. Can you sue?

If you suffer a known complication during the course of surgery, can you bring a lawsuit against the doctor who caused you harm? 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 here in the State of New York. The answer is, maybe yes or maybe no. There's no set definable answer and here's why. When we go ahead and evaluate whether or not you have a valid case, we have to look to see whether or not the doctor violated the basic standards of medical care and if so, was that a cause of your injury and were your injuries significant or permanent? All of that information has to be confirmed by a medical expert who has reviewed all your records or who has treated you.

Now in a situation where you suffer a complication that happens to be a known risk of your surgery, can we go ahead and bring a lawsuit? Do you have a valid basis for a case if you develop or experience the complication that was discussed with you by the doctor as part of your discussion before choosing to have the surgery? Now here's the analysis that goes into that. What did the doctor tell you were the complications, the risks associated with this surgery?

Now the injured patient will tell me whatever risks the doctor discussed. Did the doctor tell you there was a risk of infection? Yes. Did they tell you there was a risk of bleeding? Yes. Did they tell you there was a risk of injuring an adjacent organ? Yes. Now during the course of surgery, you did experience one of these complications and the mere fact that you suffered an injury, does that automatically mean that you have a valid basis for a case? The answer is, no, it doesn't.

The mere fact that you experienced a complication is not evidence of malpractice.

We then have to look deeply to determine whether or not the cause of that injury was a violation from the basic standard of medical care. Was this injury preventable had certain steps been taken beforehand or during the course of surgery? Were you really a proper candidate for this surgery or were you pushed into having it? There's some patients who come to me and say, "Listen. Why can't we just bring a case on the fact that the doctor didn't tell me that this was one of the risks of surgery?" That turns into a he said, she said situation. The patient said, "The doctor didn't tell me I could suffer this risk." And the doctor comes in and says, "Of course I told them that they could suffer this risk." Then the jury has to decide who they believe.

That's why you'll find that most really good attorneys are not going to take on a case only on the basis of what's known as an informed consent discussion. Why do I share this great information with you? I share with you just to give you a sense of what goes on in these medical malpractice cases here in the State of New York. You know, I recognize you're watching this video because you have questions or concerns about your own particular matter.

Well, if your matter did happen here in New York and you're thinking about bring a lawsuit but you have questions that you need answers to, what I invite 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 chat with you. You can reach me at 516-487-8207 or by e-mail at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a great day.