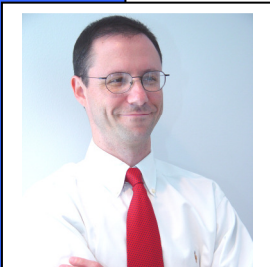


# New York Injury Times

A MONTHLY NEWSLETTER PUBLISHED BY THE LAW OFFICE OF GERALD M. OGINSKI, LLC

[www.oginski-law.com](http://www.oginski-law.com)

April 06'



Gerry Oginski, Trial Lawyer

## Take a peek at our new office

25 Great Neck Road, Suite 4, Great Neck, NY 11021

See our pictures...page 2

# Outrageous Verdicts

.... p. 2

## "YOUR CANCER IS GONE!"

Read Gerry's New  
Story...

...page 3



[www.oginski-law.com](http://www.oginski-law.com)

## WE'VE HIT A MILESTONE! OVER 3000 UNIQUE VISITORS LAST MONTH!

Come see what's so interesting. I guarantee there's something there for you.

# In This April Edition, We Look At

## OUR NEW OFFICE

Continued from page 1

Come with me and take a look at the new office-->



That's it! Now you've seen it. OK, let's move on to more interesting topics.

## IN THIS EDITION WE REALLY LOOK AT OUTRAGEOUS VERDICTS & AWARDS \$\$\$

[\\$9 Million awarded to Staten Island Ferry Victim.](#)

[\\$17.5 Million awarded to injured child.](#)

[\\$10 Million awarded to woman for sexual discrimination.](#)

If you don't believe these verdicts happen every day, just take a look at my website where I have posted over 200 verdicts and settlements to read about- from all across the Country.

What we really aren't privy to are the details that led to each of these huge awards. Somewhere, a group of well intentioned, and presumably intelligent people determined that each of those folks deserved not only to be compensated for their injuries, but also an amount that, to a newspaper-reading-public, certainly seems outrageous.

Some people accuse plaintiff's lawyers as being 'skilled advocates' when a large verdict is awarded. Others put blame on the defense for not trying to settle quietly out of court. Others feel the jury system is antiquated and favors the injured victim. Some or all of these things may be true. It's difficult to pinpoint for sure, so I'm not even going to try.

Instead, working within the current jury system that we have there are built-in safeguards that protect the defendants and their insurance companies when a large award is made. Here's what I mean...

In New York, when a jury makes an award for economic loss and pain and suffering, there must be proof of the losses. Economic losses are much easier to prove than 'non-economic' losses, otherwise known as 'pain & suffering'.

Many states across the country have enacted artificial caps (limits) on how much an injured victim can recover for pain & suffering. Thankfully, New York is not one of them.

Let's say a jury awards \$20 Million dollars to a man for a fractured arm, and he was out of work for 3 weeks and returned to work 1 month after his accident. He also needed surgery to correct the deformity.

### 1st Step:

The trial judge will determine if the award 'shocks the conscience' of the Court and is in accordance with similar cases and awards. In all likelihood, the trial judge will reduce the award to an arbitrary number. If the parties agree, then the case ends. If the parties do not agree with the Judge's decision, the parties are able to appeal to the Appellate Division.

### 2nd Step:

If the matter is appealed, any number of things can happen. (1) The appellate court can determine that the original jury award to the victim was appropriate; (2) The award that was changed by the trial judge can be enforced; (3) The appellate court could throw out the entire award and order that everyone start over with a new trial; (4) The court could dismiss the entire award and lawsuit altogether.

### 3rd Step:

The parties could agree to settle their differences after the trial judge renders a decision.

Just keep in mind that those outrageous awards were made for a reason- maybe it was to punish the wrongdoer; maybe it was to fully and fairly compensate an injured victim; maybe it was the only way the jury could both compensate the victim and punish the wrongdoer- since nobody can ever turn back the hands of time and make an injured victim whole again.

For someone who has been catastrophically injured, do you really think they want money? Wouldn't they do anything in the world to have their health again? The money will simply make their lives a little easier, and allow them to pay for the best medical care available. Isn't that the least they should have when a grave injustice was handed to them? You decide.



# ***Your Cancer is Gone!***

“The Cancer is all gone?” exclaimed Dr. Jack Daniels, Chief of Cancer Surgery at New York Cancer Center. “It’s impossible, I mean, how did this happen?” he asked his junior residents. “Donna is a 52 year old woman with advanced lung cancer. She’s been in and out of this hospital six times in the last year alone. Her condition is terminal. She’s going to die...as of yesterday,” recited the 3<sup>rd</sup> year resident.

“But today, after having special imaging tests, there’s no evidence of cancer anywhere!” stated the resident.

“Run the tests again,” said the chief of surgery. “It’s impossible. How could the CAT scans and MRI scans not be correct? Get me the chief of radiology. I want him to review those films and scans with me...NOW!”

Fifteen minutes later, Dr. Daniels and Dr. Mamajama, chief of radiology, were busy reviewing the MRI scans and CAT scans in a darkened room, lit only by the backlighting of x-ray shadow boxes. Both looked perplexed. “Look here at the films from a week ago,” said Dr. Mamajama. “They show advanced metastatic cancer throughout her lungs and throughout her body...but now...” he trailed off, thinking to himself. The films from today do not show any cancer at all. “It’s as if it disappeared!” said

Dr. Daniels. Both physicians double and triple checked to make sure that the films from today were in fact those of Donna. They were. Neither understood the significance of these findings. They decided to meet again after Donna had another series of scans later in the day.

Later that afternoon, after Dr. Daniels had finished his rounds seeing all of his patients, he went downstairs to the radiology department, and walked into Dr. Mamajama’s office. “Well?” Dr. Daniels asked Dr. Mamajama. “This can’t be right...come here...take a look,” he said to Dr. Daniels.

Again, both doctors looked at the films as if they were objects that held the key to answering questions like “Which came first, the chicken or the egg.” They were both intensely looking for any sign of cancer on the films...but couldn’t find any. “Call in the technician who performed these scans,” barked Dr. Mamajama to his secretary. “I want him in here now.”

“You rang, Dr. Mamajama?” asked Mr. Finkel. “Tell me how you took these scans, and whether there was any problem with the machines,” asked Dr. Mamajama. Ten minutes later, everyone in the office agreed that the machines were working properly and had been all day. What nobody could understand is how Donna’s cancer was simply gone today. Yesterday it was racing through her entire body, causing havoc and mass destruction, yet today it was totally gone. “Impossible!” both doctors thought.

Both doctors decided to tell Donna the good news. “Donna, you don’t have cancer anymore,” they said. “What do you mean?” asked Donna. “Didn’t you say I’m going to die in a few months because the lung cancer is killing me and my body?” “Yes, I did, and it was going to...except today, your films show the cancer is all gone,” said Dr. Daniels, somewhat confused himself. Donna was ecstatic. She was thrilled. She didn’t feel any different, but felt wonderful knowing that the top doctor in New York, and even the United States had proclaimed her cancer-free, when only days ago, he told her she had only months to live. “Hah,” thought Donna, “These doctors don’t know sh\*t about anything.” Donna was sent home that day, and celebrated every moment of her life with her family, grateful for the chance to live and breathe again.

Seven days later, another patient at the New York Cancer Center had CAT scans and MRI scans to determine how far her ovarian cancer had progressed. The same 3<sup>rd</sup> year medical resident rushed into Dr. Daniels office carrying 26 films under his arm. “Doctor Daniels, you’ve got to see this,” he said through panting breaths from running down four flights of stairs at break-neck speed.

Dr. Daniels put down what he was doing and walked over to the x-ray shadow box and flipped the light switch. Immediately the other lights in room dimmed, allowing them to concentrate on the shadow box. “These films are from Sandy, a 42 year old woman who was diagnosed with ovarian cancer six months ago. She had surgery to evaluate her condition and was told she had six months to

live. Her cancer spread to her belly and brain,” stated the resident with precision. “But today, after reviewing her CAT scans and MRI films, her cancer is apparently gone!” recited the resident with anticipation. Dr. Daniels spent 40 minutes looking over every inch of every film brought into his office about Sandy. He couldn’t find a single speck that showed she had cancer anywhere. “This is unbelievable, incredible... Impossible,” his words trailing off. Dr. Daniels whispered to the resident. “Never in my 30 years as Chief of the Division of Cancer surgery at the most prestigious hospital in the United States have I ever seen anything like this,” said Dr. Daniels under his breath. “Get the technician in here again,” yelled Dr. Daniels.

The technician arrived unceremoniously, and asked “What’s up?” “Tell me how you took these films, and whether the machines are working properly,” asked Dr. Daniels. Again, and with exacting speech, he proceeded to explain to Dr. Daniels how the tests were completed and what steps were necessary to calibrate and correctly perform these tests. The technician proclaimed that his equipment was working beautifully, and he lovingly checked and double-checked his machines every day, for this was his livelihood.

Satisfied with his answer, Dr. Daniels told the resident to come with him. They walked upstairs to the fourth floor and walked into Sandy’s room. Her husband was with her, talking quietly. “Well, I’ve got great news. Your cancer is cured. You can go home now,” said Dr. Daniels with great pomp and punctuality.

“What are you talking about?” asked Sandy. For the next hour, Dr. Daniels proceeded to tell Sandy and her husband just what happened. “Despite this incredible finding, I want you back here in two weeks for additional scans. Also, just to be sure, I want you to go to the Hospital for Second Opinions, downtown, and get scanned there. Then we’ll know for sure that it’s all gone,” stated Dr. Daniels with finality.

One hour later, Dr. Jack Daniels had called the heads of all departments in his hospital into his office. Each one of the doctors standing before him had impeccable credentials. Each was a leader in his specialized field of medicine. Each was respected beyond the boundaries of New York, and recognized as top experts throughout the United States.


“Ladies and Gentlemen,” Dr. Daniels began. “We have a significant problem in our hospital that I need to tell you about. It began one week ago...”

By the end of the meeting, every one of these learned doctors were

filled with disbelief. They had each reviewed the ‘before and after’ films for both Donna and Sandy. Each came to the same conclusion. “The films show massive cancer, and then it’s gone. Now you see it, now you don’t,” they replied almost as a congregation. They believed this was some cruel hoax being played by the Chief of Cancer Surgery as an April Fools joke. “No joke, folks,” Dr. Daniels reassured them. “I’m having both patients re-scanned at the 2<sup>nd</sup> Opinion Hospital downtown, just to make sure it’s not a problem with our machines or our technician. All the doctors in the room agreed this needed further investigation and follow-up. They agreed to meet again after those updated scans were done.

“In the meantime,” said Dr. Daniels, “I’d appreciate if nobody mentions this to anyone else until we have a handle on this.” With that warning, all the doctors filed out of the Chief’s office with more questions than answers.

Three days later it happened again. Dr. Daniels was summoned to the fourth floor, where he was met by the entire team of surgical and medical residents, 16 in total.

*Tune in next month when we continue our new story!* 

This newsletter is published by THE LAW OFFICE OF GERALD M. OGINSKI, LLC and is © Copyright protected. It is published for informational purposes only, and no legal advice is intended. We only practice law in the State of New York. Each case is different and you are invited to discuss any legal questions with Mr. Oginski, at no cost or obligation.

The Law Office of Gerald M. Oginski, LLC  
25 Great Neck Road, Ste. 4  
Great Neck, NY 11021

**Call me personally,  
anytime.  
516-487-8207**

*Send to:*