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Big mistake-Judge reveals secret during negotiation and almost destroys settlement opportunity

I made this mistake early on in my career as a young attorney and I learned from it tremendously. I told the judge what my bottom line number was when negotiating. You want to know what this is and why it had such a devastating effect on me at that time? Come join me for a moment as I share something that I never ever repeated.

Hi, I'm Gerry Oginski. I'm a New York medical malpractice and personal injury attorney practicing law in the state of New York. This was a medical malpractice case and I was a young attorney representing the injured patient and this case came up for trial. Now, I'm ready to go try this case. I'm ready to go pick a jury, but before we go out to pick a jury, the trial judge invites the attorneys in to talk to him about what this case involves. The judge wants to facilitate and see if he can try and negotiate a settlement before we actually start this case, so he asks each attorney what this case is about and then he speaks to us privately. He says to me, "Mr. Oginski, what is your bottom line number that you are willing to accept? I promise not to divulge that information to the defense attorney when I learn from him what their settlement posture is."

Being a young, naive attorney I go ahead and tell him what my bottom line absolute number is. A number by which I will not go below. You should know that I started this settlement negotiation process with the defense attorney where I told him what our demand was, which was way, way higher than what I actually told the judge was our bottom line number.

Now, I leave the judge's chambers. The defense attorney comes in and now, he's in there for about ten minutes. The defense attorney

comes out then he tells me to go in. Now, I'm talking with the judge and he's telling me what the defense attorney is likely going to do. He tells me they have money to try and settle this case and, in fact, he tells him what my bottom line number was. I said, "Judge, what did you do? What did you do by telling him my bottom line number? Now I have no negotiation leverage. Now I can't do anything. If they come back with less than that number that means you've guaranteed we're trying this case to a verdict."

He said, "Don't worry. Everything's fine. I said, "No, Judge, it's not fine because what you've done is you've given away everything. The only leverage that I had was my bottom line number and now I have no ability to get some leverage to try and get more than what my bottom line number was all because you gave them my bottom line number when you specifically promised not to do that. That's outrageous." I was very upset with the judge and you know what? He didn't care. All he knew was that he wanted to try and resolve this case. That's what was going on in his mind.

What do you think happened? The defense comes back with a settlement offer that is less than my bottom line number that the judge told them. Now, he comes back to me and he says, "Mr. Oginski, I got you a great settlement offer." I said, "What is it?" He tells me the number and it is significantly less than my bottom line absolute number. I said, "Judge, I told you what my bottom line number is that I could accept. I came down off my demand, which was up here, now I told you what my bottom line number was and now you're telling me they offered way, way below my bottom line number and you're telling me that that's a great number? I'm sorry, Judge, but you now just bought me a trial and now we have to try this case to verdict." That's exactly what we did. You should know that I never ever made that mistake again by divulging my absolute bottom number to the trial judge.

Why don't I share this great information with you. I share with you just to give you an insight and understanding into what goes on during these accident cases and medical malpractice cases and wrongful death cases here in New York.

You know? I recognize and I acknowledge that you're watching this video because you likely have questions or concerns about your own particular matter. If you matter did happen here in New York and you're thinking about bringing a law suit, but you have questions that need to be answered, what I invite you to do is pick up the phone and call me. I can answer you're legal questions. You know? This is some-

thing 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 great day.