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Do you have to mitigate your damages?

If you suffer an injury because of a careless driver or a careless doctor or hospital staff, do you have an obligation to minimize your injuries or actually to use the legal term 'to mitigate' your damages? 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 in the state of New York. The answer is, in New York, yes, you do have an obligation to minimize your injuries or to mitigate your damages, they're the same thing. Let's say, for example, you suffer a tremendous injury in a car accident or a doctor causes you significant harm, and now you have an opportunity to try and have corrective surgery or corrective treatment to try and reduce the injuries that you are claiming was caused by the careless driver or the careless hospital or the careless doctor.

Now, what happens if you don't? Let me tell you the story of a woman that I was able to help a number of years ago. She was having a massive panic attack and was taken to an emergency room where they wound up sedating her, and she was all hysterical, she was overly emotional. Now, what do you think happens when they sedate her? They actually left her alone on the emergency room bed, they never restrained her, they didn't put anyone in a room to watch her to make sure that if she decided to get up she would not go ahead and fall or suffer an injury. Well, that's exactly what happened to her, they failed to restrain her and now they also didn't put anybody in a room to watch her. What happened? She suffered a massive fracture to her shoulder. She had a terrible psychological history growing up and now was fearful of having any type of surgery where she was no longer in control which meant being put under anesthesia.

Even though she did have an obligation to minimize and reduce her injury, which was the fractured shoulder, now, because of her fear, she refused to have corrective treatment. Does that justify and explain why she couldn't? In her specific case it did and there may be instances which may permit you

not to go ahead and have corrective treatment, but the majority of time you're going to find that you are required to try and minimize and reduce the type of injury you have, if you have the opportunity to do so. The defense will always argue that you failed to minimize your damages and that you should have done everything possible within your power to try and reduce the injuries that you suffered.

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 in these accident cases and medical malpractice cases in New York. I recognize you're watching this video because you likely have questions or concerns about your own particular matter. If your matter did happen in New York and you're thinking about bringing a lawsuit 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 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.