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Doctor moves away after lawsuit is started. Is that a problem?

You've sued your doctor claiming that she violated the basic standards of medical care. After the lawsuit gets started she winds up leaving and moving to California. What happens when it now time for us to question the doctor during the pretrial testimony in your lawsuit here in New York? You want to know how we deal with this? Come join me for a moment as I share some great information.

Hi, I'm Gerry Oginski. I am a New York medical malpractice and personal injury attorney practicing law here in the state of New York.

There are a number of different ways we can deal with this, but you might be asking, "Wait a minute. Am I going to have to fly out to California to question here in her attorney's office in California?" That is one option, but it's probably the least likely option to occur. In all likelihood, the defensive attorney here in New York is going to have the doctor come back to New York to go ahead and give a pretrial testimony that is known as a deposition.

Why is that? It is because as a named defendant, as a party to the lawsuit, she has an obligation to participate in these proceedings. If she fails to participate, now we can take action and ask the court to do certain things such as dismissing the defense's answer which is the same as basically meaning we get a default win.

Now, they have an incentive to want to participate. Let's say the doctor is disabled and can't physically come to New York. One option, it's not a great option, but we can do a video style interview with her attorney on video, her attorney on the phone, I am on video as well and now we can have a split screen where I am asking all the questions and she is answering me and we're recording that video. Now we can

ultimately show that at the time of the trial. That is a next best option.

Another option, the one that I talked about as being least likely is to travel all the way to California to be able to question her there. Her attorney will join us and now we'll go ahead and question her in California. Out of all the options, that is the least likely one to occur.

The most likely one is that the attorney is going to invite the doctor to come back to New York to give us an opportunity to question her during her pretrial testimony.

This does come up from time to time and I wanted to share this great information with you so that you have an understanding of what can happen during the course of a medical malpractice suit here in the state of New York.

I recognize you are watching this because you likely have questions or concerns about your own particular matter. If your matter did happen here in New York and you're thinking about bringing a lawsuit, but you've got questions. What I invite you to do is pick up the phone and call me. I can answer your legal 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 is it for today's video. I am Gerry Oginski. Have a great day.