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Doctor wants to settle his case. His defense attorney says don't do it.

The doctor wants to settle a malpractice case.

His defense attorney says, "Don't do it".

The doctor says, "I don't want to be on trial for two weeks straight. Losing all this time from seeing patients".

What do you think is going to happen? Is the case going to settle? 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. Now in a medical malpractice case when the doctor turns to his attorney and says, "Listen I want you to settle this case now". Will the attorney go ahead and do it? Well the answer is maybe, and maybe not. Here's what I mean. The defense attorney tells the doctor, "Listen I think we have a good case. We have a defensible case. Don't settle this case". The doctor says, "I don't want to be on trial for two weeks straight. I have patients to see. I have surgeries to do. By being on trial for two weeks I'm losing out on a tremendous amount of money. I don't want to do that. Make this case go away".

Now what happens then? Now the attorney has to decide whether or not he can proceed forward, because if the doctor refuses to come in and participate at the trial now the defense attorney has a problem, but it may be a problem for the doctor. You want to know why? Because the doctor has an obligation to participate and help the defense attorney in defending the case. If the doctor is able to convince his attorney as well as the insurance company that they have no defense, and there's a very good chance that the injured patient, the plaintiff, is going to a verdict in their favor, a substantial one. Now he maybe able to convince the insurance company that

it's in their best interest as well as his own best interest to go ahead and settle this case prior to trial.

Why? For a number of key reasons. The first of which is that the doctor doesn't want to participate in the trial. The defense attorney needs the doctor to participate in the trial in order to present a solid defense. In fact the plaintiff's attorney, the injured victim's attorney will likely call the doctor as his first witness to testify. We're not calling the injured patient to testify. Instead we're calling the doctor who's being sued, so that now the jury can hear in his own words exactly what he did and why, and then show the jury how if certain things were done or were not done, that would've been a violation of the basic standards of medical care, and if the doctor doesn't come into court to testify, now he's got a number of problems. Now we can get a missing witness charge. Now we can try to hold the doctor in contempt, because we will have subpoenaed him and compelled him to come into court.

Again if he doesn't want to come in, you can't physically force him. Maybe you can ask the judge to get the sheriff to go get him, but in all likelihood that's not going to happen, but now if the doctor turns around and tells his attorney, "I want this case settled within the limits of my insurance policy", and here's why. Now there's a tremendous amount of pressure on the defense attorney as well as the insurance company to settle this case within the doctor's insurance policy limits.

You know I recognize and acknowledge this video because you likely have questions or concerns about your own particular matter. Well if your matter did happen in New York and you're thinking about bringing a law suit, but you have legal questions that need answers. What I invite you to do is pick up the phone and call me. I can answer your legal questions. You know there'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.