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How does defense know our settlement demand is not really our take-home number?

The defense attorney asks me, "How much money do I need in order to settle this case?" How does the defense lawyer know that the amount that I'm demanding to settle this case isn't really the total amount that I need to settle this case? You want to know what this is all about? Come, join me for a moment as I share with you an inside look at settlement negotiations in civil law suits here in the State of New York.

Hi, I'm Gerry Oginski. I'm a New York Medical Malpractice and personal injury attorney, practicing law here in the State of New York. Now, during the course of a law suit whether it's an accident case or a medical malpractice case, or even a wrongful death case, the defense attorney comes to me and says, "Listen, what do you need to settle this case?" Let's say I tell them, "I need \$2 million to settle this case." How does the defense attorney really know that I don't really need \$2 million to settle this case?

I'll tell you why? Historically, defense attorneys know that the settlement demand is often negotiable. Unless I turn around to the defense attorney and say, "Listen, this is my rock bottom number \$2 million. You can tell the insurance company anything you want. You could tell them I made a demand of \$10 million and you knock me down to 2 million, I don't care what you tell them, but you should know that my absolute bottom number is 2 million. If you come back with \$1.95 million, the answer is no. We're going to trial."

That's different than telling the defense attorney, "Listen, the demand is \$2 million. We have room to negotiate." Now, the defense attorney knows he can go back to the insurance company and say, "Listen, Og-

inski just made a demand of \$2 million. I think we can get this case settled for the following amount." Now, they'll go ahead and evaluate whether or not my demand is reasonable, and if it is how much money they're going to offer at least initially to begin the negotiation process.

The defense will come back, they'll tell me what they're going to offer and now, we can have the dance. It really is a negotiation dance. They make an offer, I make a counter offer. It goes back and forth a number of times until someone reaches a line in the sand until the defense says, "I'm sorry, we're not offering anymore money," or we turn around and say, "I'm sorry, that's insufficient. Unless you're going to offer more now, we're going to trial."

The negotiation process is very fluid and very dynamic. It could change at any given time. Unless, I turnaround to the defense attorney and give them a rock bottom number to which we will not go below, there are some defense attorneys who will turn around and their insurance companies who will try and play games and come back with \$1.95 million or \$1.995 million. The answer if my bottom number was 2 million, rock bottom, the answer is no, I'm sorry.

Now, if we get to trial, the judge is going to try and put pressure on me to settle this case over a difference of what, \$50,000 or \$500,000? Whatever the number is, it's not the number that I told them was my rock bottom number. Why do I share this great information with you? I share it with you just to give you an inside look at what occurs during the negotiation process in these civil law suits here in New York.

I realize you're watching this video because you 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 law suit but you have questions that you need answers to. What I encourage 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 e-mail at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a wonderful day.