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## How to control a medical expert on cross examination

Why is it so important to keep a medical expert on a very short lease during cross-examination? You want to know the answer? Come join me for a moment as I share with you some traffic 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.

On cross-examination, my goal is to get the doctor to answer questions that really call for a yes or no, or I don't know. I don't want to give the doctor the opportunity to go ahead and explain everything. Now you should know that the defense attorney is going to prepare his doctor to tell him, "Listen, every chance you get I want you to try and explain your answers." Why is that? Because he knows that an attorney, a really good trial attorney, is going to try and get the doctor to limit his answers to either yes, no, or I don't know.

One of the ways we accomplish that is by asking only short leading questions. I never want to ask these key open-ended questions: who, what, where, when, how, and why. Because asking those types of questions give the doctor an opportunity to explain. The more the doctor gets to explain to the jury, guess what? The more they begin to like him. The more they begin to trust him. Now his attorney during direct examination will have accomplished all of that. He'll be asking lots of direct examination questions so that now the doctor can explain everything to the jury.

When I get up to cross-examine the doctor I'm going to set some basic ground rules. "Doctor, I'm going to be asking you a series of questions that only call for a yes or no answer. If you can't answer that, do you promise to tell me that you can't answer the question and I'll be happy to rephrase it." Now when I go ahead and ask him another question, and now he tells me that he wants to explain, and then I'll

go back to the original question: "Doctor, isn't it true you agreed that you would answer these questions on the yes, no, or I don't know?" Once he says yes, now I'll go back to my question that I asked that he wanted to explain the answer.

Now cross-examination has been described as a search for the truth to determine and test the witness' credibility. One of the key ways to do that is by showing the doctor our set of facts that we believe are true and then trying to get the doctor to either accept them or disagree with them. That's one of the key goals of cross-examination. An attorney who does not keep the doctor on a short leash by requesting that he only answer those specific types of questions is going to have a really big problem and he's going to lose control of this witness.

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 medical malpractice cases 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 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. 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](mailto:Gerry@Oginski-Law.com). That's it for today's video. I'm Gerry Oginski. Have a fantastic day.