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If defense doctor can't testify at trial can he testify by video?

During the course of your medical malpractice lawsuit, the defense, wants you examined, by a doctor of their own choosing, but there's a problem, the doctor can't come in and testify, and now the defense wants to go ahead, and do a video deposition, of the doctor who examined you, to now present it, at trial.

Can they do that?

Do 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.

So, now you've brought a lawsuit against a doctor, claiming that he violated the basic standards, of medical care, causing you significant injury. Well now you bring a lawsuit, and during the course of your lawsuit, the defense has an opportunity, to have you examined by a doctor of their choosing.

The whole purpose of having you examined, by one of their doctors, is to access your current medical condition. You should know that the majority of the time, these defense doctors come in and say. "Oh, no, no, you're not as badly injured, as you claim you are".

Their whole goal is to minimize, the extent of your injury. Why? To try to limit the amount that they'll ultimately have to pay, if they're legally responsible. So, now if the doctor, who examined you, is not able to come into court, for what ever reason. The defense may, in

some cases, try and preserve that doctors testimony, and the way they do that is by questioning him, during pre-trial testimony.

There's a whole process and procedure in order to allow the defense to go ahead and do that, but they may have a valid reason, saying listen, "We want this doctor to come in and testify, but he's going to be out of the country", or he won't be available at the time of trial.

So, now we'd like the opportunity to question him, and we're giving you, the plaintiff, the opportunity to cross examine him, during this pre-trial testimony process. So, now we can use that testimony, at the time of trial.

Will the judge allow that to happen?

In all likelihood, yes. If the defense can give a valid explanation, and a valid reason why the doctor is not available, to come in and testify, at the time of trial.

Now do I have to be there?

The answer is, yes I do.

If they're going to question the doctor, during pre-trial testimony, it is the same as if, we're at trial. The only difference is that were doing it, in the attorney's office. There will be a court reporter, taking down all the questions, and all the answers that are given. Ideally they will want to have this video taped, so the jury can actually see, as well as hear, exactly the questions that are being asked, and the answers that are given.

So, now after the attorney, the defense lawyer is done questioning their own doctor, I then have an opportunity, to cross examine the doctor, the same way as if, I am at trial cross examining him.

So, 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 can happen, during a medical malpractice case, here in the state of New York.

You know I've realize you're watching this, because you likely have questions, or concerns, about your own particular matter.

Well if your matter happened here in New York, and you're thinking about bringing a lawsuit, but you've got legal questions, what I en-

courage you to do is, pick up the phone, and call me. I can answer your legal questions.

You know, 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's it for today's video, I'm Gerry Oginski, have a wonderful day.