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Is a Wrongful Death Case Here in New York How Much of a Pension are You Receiving?

The defense attorney turned to my client during her pre-trial questioning and asked her how much of a pension she was getting as a result of her husband's death. In this wrongful death action, is that an appropriate question for the defense attorney to ask? You want to know the answer? Come join me for a moment as I share with you some terrific information.

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

This was a wrongful death case. My client was bringing a law suit claiming that a doctor violated the basic standards of medical care, causing her husband's death.

Now, during the course of the law suit, the defense attorney had an opportunity to question the surviving spouse, my client, in my office. This is known as a deposition. During this question and answer session, one of the questions the defense lawyer asked my client was, how much of a pension did you husband have, that you are now receiving on a monthly basis? Did she have to answer the question?

The answer is, she did have to answer the question, but you might be wondering, what does that have to do with the damages that she's claiming as a result of her husband's death? You should know that in every wrongful death case here in New York, one of the key elements that we look for when claiming damages is, what was the financial loss to the family as a result of this person's death? Did the family suffer financial loss? If the answer is yes, now we have to prove it. We have to show that we are more likely right than wrong that the family did, in fact, suffer financial loss.

Now the defense lawyer does have an opportunity to ask questions about what type of financial losses they suffered. How much were they earning

before and now that income is no longer there? What were the expenses that they paid for on a regular basis, such as household expenses? Now, the defense attorney will often try and ask questions that have nothing whatsoever to do with the valid part of the damages claims, such as, how much life insurance did you husband have?

You might be saying, "Wait a second, what does the fact that he had life insurance have to do with whether or not this doctor is responsible for compensating the family, the surviving family members, for their wrongdoing?" The reality is, it's got nothing to do with it.

If he had a pension you might be asking, "What did that have to do with the damages that the doctor might ultimately be responsible to pay?" The answer is, it might have absolutely nothing to do with it, but in many instances the defense attorney will have the opportunity to ask the question, to learn about whether or not there is an expense, whether or not there is a financial loss, but they may not be able to use that information at the time of trial.

The discovery process allows the defense to obtain a lot of information, even though it may not be relevant at all, and have no basis for them to use at the time of trial.

Why do I share this great information with you? I share it with you just to give you an insight and understanding into what goes on in these wrongful death cases here in New York.

You know? I acknowledge and I recognized that you've got questions or concerns about your wrongful death matter. If you're thinking about bringing a lawsuit, and you have questions that need answers, what I invite you to do is, you know what I'm going to say right? Pick up the phone and call me. You know, I answer questions just like yours every single day and I'd love to talk to 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.