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Is defense medical expert biased?

Gerry Oginski:

If a medical expert testifies for only one side or the other can we use that at trial during cross examination to show that the expert is biased? Would you like 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 here in the state of New York. The answer is yes, we can use that information to show that this medical expert is biased. There are many instances where the defense will call a medical expert to testify and in doing our research we learn that this doctor testifies virtually almost always for the defense, only on behalf of doctors or hospitals, rarely, if ever for an injured patient. Can I use that information to show to the jury that this doctor, this medical expert has a definite bias and he is refusing and unwilling to acknowledge and ever come in and testify on behalf of an injured patient and I can spend a tremendous amount of time going through each and every case that the doctor has testified on behalf of a doctor or a hospital.

Why would I do that? I want to do that to show to the jury that this doctor is in favor of one side or the other, that he is biased, that he is prejudging, he is prejudiced without actually coming out and saying, "Hey, doctor, aren't you biased? Hey, doctor, aren't you prejudiced?" Because nobody's ever going to admit that they are biased. We have an inherent bias against saying that we're biased. Well, guess what? Everyone has opinions, everyone has feelings, and some people have stronger opinions than others. Well, if a doctor only comes in and testifies on behalf of the defense, certainly we can make the argument that because of that, no matter what the doctor's going to say, he's never going to acknowledge and recognize that our claims are true. Doesn't matter what it is, he's not coming in testifying fairly. Instead he's got an inherent bend towards one side and even though I may ask him hypothetical questions about whether or not certain treatment was appropriate, in all likelihood he's going to disagree with me every single time.

Why would he disagree with me almost every single time? Because he doesn't want to give me one inch. He doesn't want to acknowledge anything that what we're claiming is more likely right than wrong. Likewise the defense attorney's going to try and do the same thing for our experts and the whole key is to try and show the jury that the expert is biased and if we can do that we can then basically negate the entire medical expert's testimony or at least most of it and get them to realize that this expert is not to be trusted. Why do I share this quick information with you? It's a beautiful day here in Great Neck and I wanted to share this great information to give you an inside look at what actually goes on in a medical malpractice case here in New York. I understand, I recognize you're watching this video because you likely have questions or concerns about your own particular matter.

If your matter did in fact happen in New York and you're contemplating bringing a lawsuit but you have questions that need answers, 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 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 fantastic day.