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Judge doesn't believe we have a valid case. Can we still go forward?

Your case has come up for trial, and now before we begin jury selection, the trial judge wants to meet with the attorneys to see what this case is about. If the judge doesn't believe that we have a valid case, does it matter? Can we still go forward with trial? 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. Now, during this pre-trial conference with the judge, the judge wants to know, "What's this case about?" We go ahead and tell him what our claims are. The defense goes ahead and tells the judge what their defenses are and why they believe we don't have a valid case. If the judge doesn't believe us and doesn't think we have a great case, does that mean that we can't go forward to trial? The answer is, no it doesn't. It simply means that just in 2 minutes of talking to the judge, he doesn't buy our argument. That's okay. You want to know why? We haven't presented any evidence. We haven't presented any testimony. We haven't presented any proof to the judge. We've simply had a 2 minute conversation with the judge telling him what the case is about. The judge makes an off the cuff remark saying, "I don't buy it. The jury's not going to buy it either."

Well guess what? That may be true, but it doesn't mean we can't go forward. Now, on the other hand, he may turn around and say, "You got a great case, counselor," and turn to the defense attorney and say, "Your defenses stink. The jury's not going to buy them at all. You better settle this case." Can the judge say that? The answer is absolutely. In fact, that's one of the strategies that judges use to try and get the attorneys to come together to go ahead and try and resolve this case before we go ahead and pick a jury or before we go ahead and start the actual trial. The judge tries to put pressure on each side to show the weaknesses that will likely come up. Now to go ahead to get them to recognize. "Hey, listen. You've got a problem, Mr. Plaintiff. You've got a problem, Mr. Defendant. If you guys don't resolve this

now, the jury's going to come out with a verdict against one of you, and neither one of you are going to be happy."

That can often prompt attorneys to try and start negotiating. That's why the judge wants to learn about what the case involves. Simply because the judge tell us in a 2 minute conversation, "No, I don't buy that argument. No, I don't buy those defense," doesn't mean we can't proceed forward and go to trial. Shortly after that conversation, the judge will want to know, "Hey, how many witness do you have? Who are your witnesses? How long do you think your case will take? Terrific, go pick the jury. Go start the trial." We go from there.

Why do I share this great information with you? I share it with you just to give you and insight and an understanding into what goes on in these accident cases and medical malpractice cases and wrongful death cases here in New York. I recognize and acknowledge you're watching this video because you have questions or concerns about your own particular matter. Well if your matter did happen here in New York, and you're thinking about bringing a lawsuit but you have question that need to be answered first, what I invite you to do is pick up the phone and call me. I can answer your legal questions. You know that 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.