

# NEW YORK INJURY TIMES



Gerry Oginski  
NY Medical Malpractice  
& Accident Lawyer

## THE TRUE COST OF PERMANENT INJURIES

### BICYCLE ACCIDENTS IN NEW YORK

TRIVIA GAME \* REFERRALS \* A CONTEST

**BONUS: AN INCREDIBLY RIVETING  
STORY ABOUT OUR FAMILY'S  
SURVIVAL DURING THE HOLOCAUST**

### New York Medical Malpractice: The True Cost Of Permanent Injuries

We hear so much about who is responsible for the current climate of medical malpractice lawsuits. However, what we hear so little about is the true cost of the irreparable injuries that medical mistakes and errors create.

Let me explain what I mean using a real case I handled recently-

A young man suffered a heart attack and because of the extensive heart damage, he needed an emergency triple-bypass to keep him alive. Despite the emergency surgery, he suffered many complications including kidney failure, fluid in his lungs and an inability of his heart to fully pump his blood. He also needed a heart transplant, but because of his continuing and ongoing medical complications, he was no longer eligible as a candidate for a heart transplant.

This young man became trapped in his own deteriorating body. He could not walk more than 10 steps without having to sit down. He could not go up or down stairs. He could no longer breathe without difficulty. He spent most of his day sitting on the couch or in bed because his body could no longer give him the strength to walk across his bedroom. He took 40 pills per day. Each pill had its' own risks and side effects. Many of the pills caused side effects including constipation, high blood pressure, bleeding, frequent urination, decreased appetite and more. Yet he still needed these pills to continue to live.

Let me backtrack for a moment. These injuries were totally preventable because months earlier, this young man had made complaints of chest pain both to his doctor and doctors in a hospital.

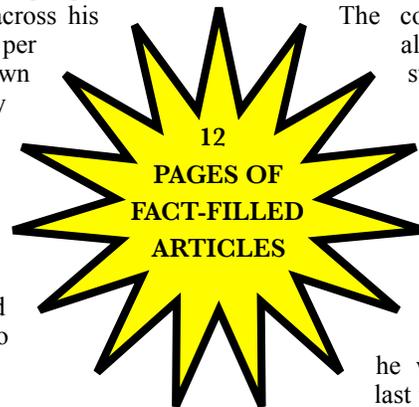
Both misread the results of his cardiac testing. Had they accurately interpreted the tests, this young man would have had elective heart bypass surgery, and would never have had the devastating heart attack that will limit his life forever.

The costs of these life-altering injuries were staggering.

Let's start first with the economic loss. That is something that we could actually calculate using the amount of money

he was earning in the last few years before the

malpractice occurred. An economist could actually project the amount of money this man would have received, assuming that he continued in the job he was in and



moved up the ladder over time, over the course of his working lifetime. That number was staggering and clearly defined. Also, we looked to the additional benefits he received, including health insurance, dental, bonuses, vacations and gifts. Again, recognize that these benefits could be calculated and these losses could be predicted over the course of a lifetime.

Then we move our focus to the "non-economic loss" that the young man and his family experienced on a day-to-day basis. What is his pain and suffering worth- from the time of the malpractice until the time of trial? What has his family endured while watching a once vibrant and successful businessman turn into a reclusive hermit, physically incapable to take his young child to the bus stop in front of their home in the morning? What does it mean when the wife must now become her spouse's nurse 24 hours a day? Every little activity needs assistance. For example, when the phone rings and the young man cannot race to the phone to see who is calling, he needs help. When the doorbell rings, and this young man takes 15 minutes to get to the front door, he needs help. Going to the bathroom is an unpleasant and uncomfortable task- not just for him, but for his wife, who does everything she can for her loving husband.

What is the value of these tragic moments in this young man's life?



Let's go back for a moment to the economic loss. Do you know how much rehabilitation costs? For this man, he needed rehabilitation 5 days a week. He needed to learn to walk again. He needed an aide to help him get across

the room. He needed oxygen in his room 24 hours a day, 7 days a week, 365 days a year. How much does continuous oxygen cost? He needed bandages, needles to check his sugar level and insulin injections every day for the remainder of his life.

This young man could not work anymore. How would he support his wife and child? This once proud breadwinner now must rely on his wife and strangers to help him with life's daily needs. How will he pay his mounting medical bills if he has no health insurance? How can he afford to pay the health insurance premiums if he can't work?

How do we, as a society, put a price on the value of this man's injuries?

The economic cost of this man's injuries were significant- in the multi-million dollar range. The non-economic cost was also significant- but that is an area of compensation that defies an exact number.

All too often, critics of our justice system beat the drums of "tort reform" claiming that frivolous lawsuits are responsible for (1) Doctors leaving medicine, (2) High medical malpractice premiums, and an assortment of other perceived ills created by "trial lawyers." Yet we rarely hear how the truly injured victims experience astonishing, astronomical and catastrophic economic losses. Who will pay for their injuries? Who will pay to make the injured victim and his family whole again?

It is often said that when a wrongdoer causes harm, he owes a debt to the injured victim. That debt must be repaid. A catastrophically injured victim's costs are large, and the debt to repay grows larger every day. Compensation is literally a debt that must be repaid in full. Not partial payment but full payment. Anything less is a discount that only benefits the wrongdoer.

I had the privilege of representing this young man and his family in their awful tragedy. The true value of his permanent injuries are more than one can possibly imagine. The economic injury, the pain he and his family endure, and the

agonizing suffering he goes through each day is simply unthinkable. Yet, I think of him and his family every day.



## Bicycle Accidents In New York Bicycle v. Car Who Wins?



versus



**You think you know the answer, right? Bicycle versus car. Who wins? The car will win every single time. Why?**

Because the car weighs thousands of pounds, is made of metal, steel, glass, and is surrounded by material to absorb an impact. A bicycle on the other hand weighs anywhere from 16 pounds for a super-light road-racing bike to 30-40 pounds for a mountain bike. The bicycle has no crash protection, no bumpers, no ability to absorb any impact. Just you and your thin bike to get you from one place to the other.

**What safety devices do bicycles have?**

- (1) Reflectors
- (2) Rear tail lights
- (3) Sometimes a front headlight

(4) An experienced rider will often wear high-visibility clothing with reflective strips to give him or her better chances of visibility to cars and trucks. Many riders also wear blinking battery-operated bike lights- again to improve their chances of being seen by motorists.

What safety devices do cars have?

- (1) Headlights
- (2) Tail lights
- (3) Anti-lock brakes
- (4) Front and rear proximity sensors
- (5) Airbags- head/ front/ side
- (6) Thousands of pounds of metal, glass and an engine to encompass you

Often, motorists do not see bicyclists even with all the "safety devices" designed to improve their visibility.

Recently, I represented a man who was biking home from work at his job at a computer company. He was traveling on a busy roadway at rush hour, using the "bicycle lane" on the shoulder of the roadway. It was about 5:30 p.m. He was wearing a helmet, reflective bike shoes, and a highly visible biking jersey. The traffic going in his direction was in stop & go traffic, but on the shoulder lane he had clear sailing.

He was biking on a slight uphill doing about 10 miles per hour. A car traveling in the opposite direction decided it need to turn into a strip mall just about where my client was riding. Unfortunately for my client, the car made a very swift left

turn, and because of the stopped car traffic adjacent to my client, never saw him as he accelerated toward the driveway to the strip mall. Who won? The car- as always.

Who lost? My client. His fancy road bike, the least of his problems, was totally destroyed. He suffered fractures, bruises, cuts and lacerations. An ambulance deposited him to the closest emergency room, where he underwent a battery of tests, including x-rays, CT scans, blood tests and an overnight stay at the hospital. The impact put him out of work for over a month, and he needed repeat visits to the orthopedist to follow his fractures and make sure they were healing properly. After the orthopedist gave the ok, he was told to start physical therapy to begin to use his arm and leg properly again.

My client lost his dignity that day. He lost the ability to continue his bike-ride home without interference from a car. His family was thrown into turmoil, rallying around dad in the emergency room. He had to explain to his boss why he couldn't return to work for weeks. He had to explain to his friends why he couldn't join them in their activities. He sat at home, useless to his wife, on the couch watching mindless television.

On the day I met my client for the first time, he had returned to work in a limited capacity, and at reduced hours. The most important thing he wanted to show me was not his scars and his cast. Rather, he wanted to show me his broken and destroyed bicycle that sat in a crumpled heap inside his car. As any bicyclist knows, a good bike is a trustworthy friend that gets you from point A to point B effortlessly. When that has been destroyed, it is devastating. However, as all things material, it can and will eventually be replaced. My client's life was miraculously spared that day, and he will learn once again to walk, to run, to write, and yes, to bike.

The driver of the car, unfortunately, had a limited insurance policy, which nevertheless was quickly offered to settle the case.

**Remember to always wear your helmet when you ride, and make yourself as visible as possible to the motorists around you.**



Never wear earphones to listen to your ipod or MP3 player, as you will not be able to hear the traffic around you. Be smart, and enjoy your bike ride. ☆

**TRY OUR TRIVIA GAME!**

**Test your knowledge of New York medical malpractice and personal injury law. Answers appear at the end of this newsletter.**

1. A 'Right of Subrogation' means that you have the right to give any money you receive in your case to anyone you wish.

TRUE OR FALSE?

2. In a deposition, the person being questioned must answer all questions except those that are 'privileged' or 'palpably improper'.

TRUE OR FALSE?

3. The standard of proof that a plaintiff (a person bringing the lawsuit) must prove in a civil trial is that their version of the events is more likely true than not true.

TRUE OR FALSE?

4. If a driver of a car is sued in a negligence lawsuit, that driver will lose their license to drive.

TRUE OR FALSE?



5. Telling a 'little white lie' at trial will have no impact with the jury and will not affect how they view your credibility.

TRUE OR FALSE?

6. If a lawyer says "I need to make out a prima fascia case," it means they're ready to place their lunch order with an Italian restaurant.

TRUE OR FALSE?

7. A teenager under the age of 18 can start a lawsuit on their own- without their parents' assistance.

TRUE OR FALSE?

8. If you sue a municipal hospital in the City of New York for medical malpractice you can no longer return to that hospital for ongoing medical care.

TRUE OR FALSE?

9. The crane on 91st Street and 1st Avenue collapsed last week killing two and injuring more. If a politician pronounced that there is no one at fault for the accident, it means there is no way to prove liability at a trial.

TRUE OR FALSE?

10. A car accident case that comes on for trial will be tried in two parts: The first part is "liability" to determine who, if anyone is responsible. The second part is "damages" and is held only if the jury finds that one or more of the people you have sued are responsible for your accident.

TRUE OR FALSE?

#### **BONUS QUESTIONS:**

**1. In a wrongful death case, the victim's family can recover for their own pain and suffering as a result of their loved one's untimely death.**

TRUE OR FALSE?

**2. If a judge makes an unfavorable ruling in your case, and your lawyer does not make a timely**



**objection, your lawyer can later appeal that decision after the verdict is given.**

TRUE OR FALSE?

*Answers appear at the end of this newsletter.* ☆

## **NEW YORK ACCIDENTS**

**"Is there a maximum amount of money I can recover for my injuries?"**

**The short answer is no. The longer answer is maybe.** How's that for lawyer double-speak? But here's what I mean:

When you bring a lawsuit to obtain money- to compensate you for your injuries, there are different types of compensation that you look to obtain. First, I'll talk about "economic" compensation. This means that if you earned let's say \$75,000 per year, and you were no longer able to work, you could then calculate exactly how much money you would have earned over the course of your lifetime. We would need to evaluate what perks and benefits you received from your job and then evaluate the likelihood that your position in your company would go up or remain the same. We consider the possibility of promotions and the likelihood that your income would go up as you climb the corporate ladder. Those 'damages' are easily calculated.

Another aspect of 'economic' compensation is payment of your medical bills. In every significant accident and medical malpractice case in New York the injury you suffer will undoubtedly require additional medical or surgical correction. Should you have to pay the doctor and medical bills for something that never would have happened to you if it were not for someone else's wrongdoing? The answer is obviously no. Well, who pays for your medical and hospital bills? In a personal injury lawsuit such as a car accident, a trip and fall, a construction accident or even a medical error resulting in injury, the wrongdoer is supposed to pay. Your lawyer will typically include a claim for medical expenses in your lawsuit, seeking to repay you the money that you had to pay out of your own pocket.

What happens if your health insurance company paid for the medical and hospital bills for your injuries? In some cases your insurance company may seek to get repaid for the money that they paid to the doctors and hospitals on your behalf. In the legal world, this is known as "A right of subrogation." An article I read the other day accused health insurance companies of "double dipping" their customers for this practice. What do I mean? The author argued, quite persuasively, that customers pay their health insurance premiums every month. The reason they do this is to make sure that if they need medical care, their health insurance company will pay for the medical bills. This is a contractual agreement that the health insurance company has with you- the customer. Now, here's where it gets

interesting. If you are injured by a doctor in New York, and you sue that doctor for compensation, and part of the compensation you seek to recover is for

are obligated to pay your medical bills REGARDLESS of the cause of your injuries. Why should they be reimbursed for something that they had a contract to pay?

That's where the argument about double dipping comes in.

Getting back to the amount of money you can recover- those medical expenses are finite. In other words, you will know how much money you spent on medical and doctor bills. Yet, your future may be

uncertain. You may need additional treatment or surgery in the future. You might incur additional medical expenses that you can currently only estimate how much they will cost. What if you need medical appliances such as a wheelchair or a prosthetic device that must be changed every few years? Maybe you need a walker or a hospital bed or oxygen or pain control pumps. These have dollar values. What if you are expected to live for another 30 years? How much will those items cost in 10, 20 or 25 years? In order to properly calculate those expected costs, we use an expert known as an economist- basically someone who studies the value of money. That expert will project out how much those items and medical care will cost over your lifetime. The economist will include inflation and factor in your earnings, your lost earnings and your future lost earning capacity. We understand that the value of a dollar today will change over time. With those projections, we can calculate a range of economic damages that you have suffered as a result of your injuries.

#### "NON-ECONOMIC DAMAGES:"

This part of a money award is for the pain and suffering you experience from the time of your injury, until the time of trial. Future pain and suffering is the money you seek for the pain, disability, loss of enjoyment of life and the suffering you will experience into the future and for your foreseeable future. It

is this part of the money award that you seek that can be virtually unlimited. Why do I say that? Because there is no set guideline that any Judge will give you at trial telling a jury that your pain and suffering is worth only "X" dollars and not a penny more. In fact, a judge will not give any guidance about how much to award for pain and suffering. For that decision the jury must rely on their common sense and their collective experience. The attorneys will likely suggest a particular number, or maybe even a range of what they feel is appropriate to award for your pain and suffering. You can expect that the defense lawyer will ask the jury to award nothing or something very minimal.

#### THE DEFENSE HAS A SAFETY NET:



"medical bills and medical expenses," the insurance company, in some cases, can legally ask you to repay the money that they paid on your behalf. "OK" you say. You already know that from my explanation above. What's so unusual that this author said represents "double dipping?"

The "double dipping" occurs because the insurance company collects insurance premiums from you. So, they take your money, in exchange for their promise to pay your medical bills. If you're injured and you go to the doctor or hospital, they do in fact pay those bills (except for the deductible that you are still obligated to pay). So far, everything is as it should be. However, when you bring a lawsuit seeking to recover money for your medical bills, the insurance company turns around with their hand out and says "Hold on...you have to repay us the money we spent for you."

Let's now say that you were successful in your lawsuit and you obtained money in your case for your medical bills. Once you repay your health insurance company the money they asked for, you have now given them back money that they paid- that is true. But...they were legally and contractually obligated to pay for your medical bills because of the premiums that you paid each month. Nowhere in any health insurance contract does it say "We will only pay your medical bills if it's unrelated to an accident or medical malpractice." They



Let's say a jury in Brooklyn or the Bronx or Queens or even Manhattan awards you an outrageously high amount of money to compensate you for your past and future pain and suffering. Does that mean the next day you'll get a check from the defendant's insurance



company? Wishful thinking. The first safety net for the defense will be when they ask the trial judge to (1) throw out the verdict, (2) reduce the award significantly claiming that the amount awarded deviates from "appropriate" compensation for your injuries, or (3) send the case back to trial to have another jury re-decide how much money you are entitled to. Your attorney will naturally fight each of those requests. If the trial judge reduces the award, do you think you're getting that check so quickly? Think again. The second safety net for the defense is to appeal the verdict as well as the trial judge's decision to reduce the award. The defense will appeal the case to the Appellate Division of the Supreme Court in the State of New York. The appeals court has many options available. They can throw out the case, in which event you get nothing. They can determine that the award significantly deviates from what is appropriate compensation and send the case back to trial to be re-tried. They can reduce the award, and in some very limited cases, increase the award



because they feel the award is inadequate.

So, getting back to the original question in the title of this article: "Is there a maximum amount you can recover for your injuries?" The long answer is maybe- but don't forget about the defense "safety net" that's going to limit your award to what an appeals court feels is appropriate for your injuries.



## New York Car Accident Attorney- Top Ten Things To Look For When Choosing A Lawyer

**Being injured is no fun. Not knowing where to turn, who to trust, and what to do about your medical bills is frustrating.**

Most people will never need a car accident lawyer. That's good. But there are folks who do get injured because of someone else's fault, and they're the ones who DO need an attorney.

Maybe you know of a friend of a cousin who was related to someone who knew an attorney. You could call him to ask him questions about your accident. Maybe you could look in the Yellow Pages and call someone who has a big ad. Maybe you could walk into a storefront lawyer's office, right off the street. Maybe you could call the 800 number on a billboard you saw. You could do all of these things and maybe you'd be ok. Then again, maybe not.

The purpose of this article is to provide you, the consumer, with information about what you need to know BEFORE you ever step into a lawyer's office. I know some lawyers who want to wait till the client gets into their office to explain to them their options. This way they can show off how brilliant they are- and maybe they are. But why not give the client information about how to choose an attorney, and let the client make their choice about who to use.

But, how do you choose among the many lawyers who advertise for your attention? The answer is not an easy one. Remember, not every lawyer advertises. Of those that do, not all of them are trial lawyers. You must ask.

So, here are the top ten most important things you need to look for in a car accident injury lawyer:

### 1. Experience

How many years has the lawyer been in practice? The greater experience, the greater likelihood this lawyer has seen cases like yours, and knows how to handle your case.

### 2. What type of firm does the lawyer have?

Is he part of a big law firm, or is he a solo practitioner? Just because the lawyer works in a big firm doesn't necessarily mean it's better for you. Likewise, just because an attorney is a solo practitioner doesn't mean he's not capable of successfully handling your case.

There are many advantages to using a solo practitioner- You get individualized, personal attention; You get an attorney who knows everything about your case; You get an attorney who returns your calls promptly; and you get someone who doesn't take on more cases than he can manage.

With a large firm you might have multiple lawyers handling different aspects of your case; different attorneys appearing in Court for conferences on your case; your phone calls may not be returned as quickly as you'd like- but at the same time a large firm might have more resources than a solo practitioner such as paralegals and associates.

Ask your prospective lawyer whether he delegates his work to his junior people, or does he do it all himself? Does he return your calls, or does the junior lawyer call you instead? Does the paralegal do all the paperwork, or does a lawyer do it?

### 3. Where is the lawyer's office?

This is important only for people who are solely concerned about convenience. Some lawyers have multiple offices. If you're concerned about going to someone whose office is in the City, and you live in the suburbs, keep in mind that most likely you will not need to physically go to his office more than a few times. He should be readily available by phone or email.

If traveling to an attorney's office is still a concern, ask whether the lawyer can travel to your home. Most attorneys will accommodate a client if they are physically unable to travel. However, if the client is simply reluctant to travel, then there is a very important reason to have the prospective client come to the lawyer's office: (1) To see how the lawyer operates, and (2) So the lawyer can see how the client adjusts to being in an unfamiliar setting. This last part is vitally important to an attorney who evaluates you as a potential witness at trial.

#### 4. Do you email clients?

Do you send regular updates by letter or email? If I have a quick question, can I email you instead of calling you on the phone?

**5. "When my case comes up for a deposition (a question and answer session with your lawyer and the lawyers for the people you have sued) will you be there with me, or will I have one of your junior associates?"**



This is very important. You're hiring a lawyer. Some people hire a law firm and don't care who works on their case. An injured victim SHOULD care, because they want to be treated with



respect and attention they deserve. In some firms, the lawyer you meet with will not be the one who appears at your deposition with you. In fact, depending on how busy the law firm is, it's possible that the lawyer you meet with may not even try your case!

That's why you've got to ask: "Will you be there at my deposition?"

**6. "When my case comes up for trial, will you be there with me, or will I have one of your junior associates?"**

Again, this is a very important question. The lawyer you get to know at your first office visit may not be the lawyer who tries your case. You may only get to meet your trial lawyer a few months before your trial starts. I know many people who don't like that approach to lawyering, and others simply don't care. As an injured victim looking for a lawyer to represent their interests, I can only suggest that you should care. However, keep in mind that there are law firms in New York, and elsewhere, that have dedicated trial lawyers. Their job is ONLY to try cases. Their other partners or associates handle the other parts of your case. In some other firms, you get one attorney and he (or she) handles your case from start to finish. Find out from your prospective attorney which one you can expect.

**7. ASK THIS QUESTION TO EVERY ATTORNEY YOU SPEAK TO: How much is my case worth?**

Why? Because there are some attorneys who will claim on your very first visit that your case is worth a ton of money—some even say "Millions!" Others are not so cavalier, and take a more cautious approach.

If a lawyer tells you your case is worth Millions, ask him to put that in writing. Why? Because no lawyer can promise or guarantee any outcome to a client. Watch what happens when you ask that lawyer to put his 'guarantee' in writing. He'll quickly backtrack and make some excuse for not putting it in writing. Be careful of an attorney who makes such promises without thoroughly knowing all the facts of your case, and without having reviewed your records.

**8. What are your success stories? What is your record?**

It's important to know how an attorney has done in the past on other types of cases. What results has he achieved recently? Obviously every case is different. But you still need to know whether he's ever achieved large settlements or verdicts. If the biggest case he ever handled was small claims court, then maybe this attorney isn't right for your type of case.

**9. Does he have a web site? Does he advertise?**

Does he have a presence on the internet? Why is this important? You want to know what type of material he has on his website. Is it a basic information card with bland material, or does he provide a reader with important information they need to know to educate them, BEFORE, they ever call him or walk into his office.

**10. Does the lawyer offer a prospective client free reports to educate them about their options BEFORE, they ever call?**

Ask if they have free reports about your type of case. Not some canned brochure that anyone can stamp their name on,

but a real substantial report that discusses your type of case. Can the reports be obtained directly from the lawyers website, or by calling his office for a copy?

Knowing this information will make you a better informed consumer. Hiring a lawyer is an important part of learning about your legal rights. Ask lots of questions and trust your instincts about

any lawyer you speak to. Good luck.  
☆

# WE'RE HAVING A CONTEST!

If you can answer the next three questions correctly, you will win a book called "Small Miracles for Families" by Yitta Halberstam & Judith Leventhal - a great little book about extraordinary coincidences.



1. Which instructional video that I created and produced has been viewed over 4,000 times online? (Hint: It involves depositions)



2. Which article that I posted online has been viewed over 4,000 times?



3. Which lawyer website compared one my videos to another lawyer's video and pronounced "The winner? Oginski by director's verdict. Case closed."



If you think you know the answers, send me an email on my "Quick Contact" form on the home page of my website:

<http://www.oginski-law.com>

The first person who answers all three questions correctly will receive the book and will be highlighted in my next newsletter, along with the answers to these three questions. Good luck!

## REFERRALS- What I'm going to tell you might shock you.

I want to talk about referrals and "kickbacks." How many times in the newspaper have you read about a businessman who made a deal with a company that said "You send me every one of your workers, and I'll make sure it'll be worth your while." In other words, the deal is that if you scratch my back, I'll scratch yours and you will be paid well for the referrals.

That may be acceptable in some businesses, however what I'm going to reveal to you about referrals to lawyers in New York may shock you...

Did you know that in New York, a lawyer is prohibited from giving a gift to someone who refers a client to him! That's right. Let me say it again. If someone refers a client to a lawyer, the lawyer cannot, under any circumstances, give a gift, whether it's money, or a service, or anything of value, to the person that made the referral. Doing so violates the ethical rules that lawyers in New York must abide by. What? Didn't you know that there are ethical rules that guide an attorney's conduct? It's true.

There is one exception however. If another lawyer refers a client to a lawyer, and if that lawyer has done some work on the client's case and also accepts responsibility for the client's matter, then the original lawyer will be allowed to receive a "Referral fee." It doesn't seem quite so fair for non-lawyers, but those are the rules that attorneys in New York must abide by.

There have been instances where lawyers have paid "runners" cash incentives to bring them clients. In some cases those "runners" worked in a hospital, or a tow truck company, or even a doctor's office. Most of those "runners" were caught and the lawyers who hired them suffered major consequences.

I've have read about lawyers in some other states offer people theater tickets, money, trips to the City, plane

tickets, limo rides, amusement park rides, and prizes for referring friends and relatives to injury lawyers.

If that were permitted in New York, then you can imagine how competitive the “bidding” would be for clients. One lawyer would offer a \$100 gift certificate. The next would offer a trip to the Bahamas. Another might offer a gold watch or jewelry. It would be endless and would make things so bad for everybody. Some might argue that the competition would be good for business. In reality it wouldn't. It would create a poisoned atmosphere where every lawyer is always trying to out-do and out-pay the other just to get a case referral.

Our system may not always work, but I believe it's the best system we have. That is why when you send your good friends and relatives to me, the best I can do is personally thank you for having the courage to give your personal stamp of approval. A letter of deep-felt thanks is all I am permitted to give.

Remember, from the bottom of my heart, I truly appreciate and thank you for every person you send to me. When a client calls and says “My friend Jane, a former client of yours, gave me your number,” I know that Jane thought highly of me and felt that her friend could benefit from my experience. It is a great feeling knowing that another person values what you do. Hopefully, with dedication and perseverance I will be able to help them the way I have helped you.

So the next time your good friend asks you for the name of an attorney, I hope you will strongly consider giving them your personal recommendation and give them my name and phone number. I will thank you for it, and so will your friends and family for caring about them enough to give them my number.

## A HOLOCAUST SURVIVAL STORY

*An incredibly moving story about my family.*

I have to tell you about an amazing project that my daughter recently completed. It was for the Holocaust Remembrance Day known as “Yom Hashoah.”

My daughter was the featured speaker at our Synagogue for the Holocaust Memorial Program this year. Shari is a Third Generation survivor of the Holocaust. The story she described about my mother and her family is a riveting and shockingly descriptive story of struggle and survival during World War II that everyone should learn about. Shari described it so well and I was able to capture the speech on video. I strongly urge and encourage everyone to view the video. Simply send me an email and I'll send you the link to

watch the video.

This true story involves my mother, her three sisters, her parents and two other family members who were hidden in a bunker, a sub-basement, in a home owned by a Polish gentile couple. What makes the story even more shocking is that they were hidden for two and a half years in this bunker. To make matters even worse, the bunker was only about two and half to three feet high. If that wasn't bad enough, the Germans took over the house to use as local headquarters for the last six months of their hiding. Watch the video to find out how they survived and what the owners of the house had to do to keep our family alive.

Learn what happened when, after the war was over, and my mother and her family were deposited in a nearby village why they couldn't stand up. The Russian soldiers in town thought they were all drunk. The soldiers were so angered at my grandparents because it looked as if they got their children drunk. The explanation my grandfather gave to the soldiers saved their lives again.

Happy endings- Forty years later, my family located the Polish couple that saved them from extermination. They brought them to New York where they were honored in a magnificent ceremony at the Pierre Hotel in Manhattan. The Israeli Ambassador awarded them Israel's highest honor “Righteous Among The Nations” for saving the lives of my mother and her family. This Polish couple, who could speak no English, were

honored at St. Patrick's Cathedral by Cardinal John O'Connor who praised this selfless couple and questioned why more non-Jews didn't help during the war. President Ronald Reagan sent the couple a letter applauding their courageous acts of bravery.

The reunion made every single newspaper in New York. Newsday covered the story with front page coverage two weeks in a row. Every news channel covered the story with lead stories about our family's survival during the war. It was a remarkable



experience. The reunion was twenty years ago. To hear my daughter re-tell this story brings to life the incredible sacrifices we often forget in our comfortable lives.

I think the story is so compelling that I've reprinted Shari's speech here in its' entirety:

### **Third Generation Shoah Survivor Project- Shari Oginski**

"My name is Shari Oginski and I am 14 years old. I would not be standing here today on Yom Hashoah had it not been for the Righteous Gentiles who risked their lives to save my Grandma Miriam and her family.

I have the privilege of being a third generation witness to the Shoah- to pass down my grandma Miriam's unbelievable story of survival during the Holocaust, from generation to generation. L'Dorvador.

It was Poland-1942-The Nazi's had taken over and their mission was to exterminate all Jews.

My grandma Miriam was the youngest of four daughters born to Liebka and Gitel Radca, in a small town in Poland called Nowy Korchen. She was 5 years old. Her older sisters were Rita 15, Zahava 10, and Sarah 9.

Before the war, 4000 Jews lived in Nowy Korchen. My great grandpa Liebka was a successful businessman owning a soda factory and a shoe business. He was well off and well respected in the community. He was especially close to a Christian man named Yusef Macugowski, who worked for grandpa Liebka's brother in law. As the Nazis became more powerful, Yusef promised grandpa Liebka that if things got worse he would be there to help them.

In 1939 the Germans came into Nowy Korchen and took over great grandpa Liebka's factory. The leader, also known as the Komisar, liked great grandpa, and told him that no matter what happens to the town and all of the other Jews, he himself would be fine. My great grandpa then asked the Komisar what would happen to his family and to his children-The Komisar told him they would go to "Himelshuler"- the shul in heaven. At this point great grandpa knew he had to develop a plan if he wanted his family to survive. He felt that if he spread the family out, there would be a better chance that some or all would survive. First, Rita the oldest, would be sent to hide with one family. Second, his widowed mother and his sister would be sent to live with another family. Third, Liebka, Gitel and the remaining 3 girls would hide with a third family, the family of Yusef Macugowski.

Then it happened- April 1942- the night of the roundup. All Jews in Nowy Korchen were called into the town center to line up for transport to Bergen-Belsen. Grandpa Liebka took advantage of the chaos in the streets, and while whispering to his family to follow him, he miraculously led

them, unnoticed to the Macugowskis home. The Radca's thought they would have to be hidden for a night or two at most, but ended up being there for a treacherous 2 and a half years.

At first the family hid in Yusef's barn with the animals for a few days. During that time, Yusef and great grandpa tried to make the bunker deeper by digging with shovels under the kitchen subbasement. Once they dug deeper than 2 and 1/2 feet, they hit water and they could go no more. Instead they made the bunker wider. There was a removable floorboard that covered the underground bunker.

A young cousin of my grandma Miriam also wound up hiding in the bunker with them. Her name was Sarah Bach. Sara and one of her brothers found themselves on a train heading to the camps. Her brother knew this was not good and they were destined for death. The box car had windows on top, and her brother made the lifesaving decision to throw 8 year old, Sarah out of the window. She miraculously landed in the snow, and found her way back to the Macugowski's house, where she too was taken into the bunker.

When the media interviewed my grandma Miriam about life in the bunker she said, "There was no light in the bunker, and it was 2 and a half feet high and 5 feet by 7 feet wide. It was like a living grave. We could only go on our hands and knees. When one turned on his side the others would have to do the same." Steffa and Yusef communicated with great grandpa Liebka and the rest of the family through a metal pipe in the kitchen that went down to the sub-basement. A kerosene lamp was used sparingly for light. In the beginning Steffa was able to give them food and water daily, and remove the bucket of waste. Everyone went to the bathroom in the same bucket which was sent up to be cleaned by Steffa once a day. They received very little food, and everyone tried to pass on their share so that someone else would have, and they especially tried to save more for my grandma Miriam, the baby. One time, a neighbor was in the bakery with Steffa and saw her buying extra bread, and questioned her. Steffa was scared and started going to other towns to buy the extra bread.

In the bunker, great grandpa taught his family Hebrew and read to them from a bible. Steffa and Yusef's two daughters and other family members who lived directly across the street never knew that they were hiding Jews. One night my aunt Zahava couldn't take it anymore, and she came out of the bunker and walked around the kitchen-the Macuogowski's little daughter saw her, and told her parents that she saw a real live doll walking around the kitchen-They scolded her and told her she was having a dream about a doll. If anyone found out that they were hiding Jews, the Nazis would have killed the entire Macugowski family.

In the last six months of the war, the Nazis decided to make the Macugowskis house their headquarters and ordered the family out their own home. For days there was no food in the bunker. Steffa begged the Nazis to be caretaker, to cook and clean for them, in return for being able to remain in the house. During this time, Steffa was only able to get food and water to

them 1 or 2 times per week. They were scared and felt hopeless. In an interview in 1986 my great Aunt Zahava said, "Many times we pleaded with the Masugowskis to bring us poison or a gun. The Masugowskis refused and told us, as long as we are alive, we are going to keep you alive."

Because of the pipe leading from the kitchen to the bunker, everyone in the bunker could hear the Nazi's above them. The Nazi's talked about the dirty Jews and how happy they were that their town was Judenrein=free of Jews. My family heard the Nazi officers radio that they were looking for one last Jewish family hidden somewhere in the town - the Radcas. Soon afterwards the Nazis radioed back that they had stopped their search because the Radca family had drowned and their bodies were found in the Vistula River - a rumor that Yusef Macugowski had successfully spread from another town.

When the war ended Yusef told great grandpa it was safe for them to come out. In the middle of the night, they left under the cover of darkness. The Macugowskis took the Radca's to a different town, because if their neighbors learned that they saved Jews, they would all be killed. The Radca family was seen the next morning rolling around on the ground in the town square- they could not stand up or walk after not being erect for 2 and 1/2 years. In the square there were Russian soldiers, and the soldiers thought the family was drunk. They threatened to kill the entire Radca family, especially great grandpa, because they thought that not only was he drunk, but he got the kids drunk as well. Great grandpa was able to explain to them that they were liberated Jews and they couldn't walk, and their lives were spared.

My family went back to their town, Nowy Korchen, but no one was happy to see them- all the Jewish homes had been taken over by Polish gentiles. They had no place to go, so they stayed at an inn. There they were firebombed, and left the town, once again fearing for their lives.

My family then went to Germany to a DP camp. Nobody knew where Rita, my grandma Miriam's oldest sister was. Rita was originally hidden by a Polish family. They eventually forced her to leave because of a sermon that their priest gave. The priest said that the Jews killed Jesus, and even if people wanted to go against the Germans, that was one thing, but you can not go against G-d.

My great aunt Rita was forced to sneak back into the Ghetto. All of the Jews were being loaded onto open trucks. They were separating the Jews - one truck was women, children and elderly people. The other truck was healthy men. Rita found herself with the young kids and old people and she realized that this would mean death. She was about 15 years old, and she tried to get herself off of that truck and onto the other, but couldn't. Henry, a family friend, and the man my great aunt Rita later married, saw her. He reached in and pulled her onto his truck. In a short while, she watched all the children and elderly people line up and get shot.

She was taken to Bergen-Belsen, and Henry was sent to Buchenwald.

After the war, my family was told that my great aunt Rita had died. In a 1987 interview, my great aunt Zahava talked about the day that they found out that Rita was actually alive. "One day my mother and I were walking when we saw a little girl with a shaved head get out of a car and walked toward my aunt's house. She looked at us and said that she had read in our home town registry that the Radca family had survived. We were going to walk right past her until my mother stopped in amazement and said, it's you it's you!" Rita's head was shaved, and she was skin and bones, but at last they were reunited. Rita met Henry again in the DP camp- they got married there and had a baby.

In 1986 my family brought Yusef and Steffa Macugowski to the U.S. They were honored at a ceremony at St. Patrick's Cathedral as righteous gentiles. The Macugowskis were accorded Yad Vashem's designation as "Righteous Among the Nations".

In Judaism, it is said that if you save a single person, it is as if you have saved the entire world. (I will be saying this in Hebrew as well.)

Yusef and Steffa Macugowski are responsible not only for saving 7 people in my family in that bunker- they are responsible for the lives of the 50 Radca descendants, and many more to come. I am one of the 50.

Tonight on Yom Hashoah we remember those who survived and those who did not, may we never forget them, and may their memory be for a blessing."



Shari is pictured here with my mother's sister, Sarah Weiner, one of the survivors who hid in the Macugowski's bunker for two and a half years. Aunt Sarah was gracious enough to join us for Shari's heartfelt speech on April 30, 2008 at Temple Israel of Great Neck.

Give this newsletter to your best friend.  
They'll thank you for it, and so will I.

-----  
*Answers to Trivia Game: 1. False, 2. True, 3. True, 4. False, 5. False, 6. False, 7. False, 8. False, 9. False, 10. True, BONUS: 1. False, 2. False.*

**“A Fun, Informative and Creative Newsletter”**

by Gerry Oginski

# NEW YORK INJURY TIMES

The Law Office of Gerald M. Oginski, LLC  
25 Great Neck Road, Suite 4  
Great Neck, N.Y. 11021



Gerry Oginski, Your New York Medical Malpractice & Personal Injury Lawyer

SEND TO:

**Call me right now with any legal questions about injuries from any accident or medical care.  
I promise to give you a straightforward and honest answer. That's my guarantee.**

**Call me today with your questions at 516-487-8207**