

**Spring
Sanibel
Edition**

New York Medical Malpractice Attorney Gerry Oginski presents

NY INJURY TIMES

MAY 2012

THE LAW OFFICE OF:
GERALD OGINSKI, LLC
25 Great Neck Rd., Suite 4
Great Neck, NY 11021
TELEPHONE 516-487-8207 FAX 516-487-8472

- MED MAL-WHAT'S IN THE NEWS?**
- GERRY'S NEVER ENDING STORY**
- NEW TRIVIA GAME**
- PHOTO GALLERY**
- ENTREPRENEUR SPOTLIGHT**

DR'S ENCOURAGED TO DISREGARD ROUTINE TESTS

Doctors from nine of the leading medical groups in the nation, including the American College of Cardiology and the American Society of Clinical Oncology, are suggesting the medical community reconsider 45 routine medical tests, which are costly and often unnecessary and may even put patients at risk.

One of the groups, the American Board of Internal Medicine Foundation, has begun a "Choosing Wisely" initiative designed to address this very concern. All of the groups are teaming up with Consumer Reports to spread the message to patients and doctors.

The New York Times reports that up to a third of the \$2 trillion yearly US health bill consists of "unnecessary hospitalizations and tests, ineffective new drugs and medical devices, unproven treatments, and unnecessary end of life care." Last year, the Archives of Internal Medicine claimed that 80% of doctors practiced these treatments for purpose of defensive medicine. According to a 2010 Consumer Reports survey, almost 50% of healthy adults received heart screenings with decidedly negative cost-benefit outlooks.

Continued on page 2



David reading on vacation. Look at what he's reading!



Shooting some educational video outdoors



Someone caught a sand shark, then returned it back to the ocean



Joseph & Mia sharing some songs at Blind Pass Beach, Sanibel

Absurd Behavior Forces Retrial in Malpractice Case

A farce in the court recently led a New York court to order a new trial in the malpractice litigation of an anesthesiologist after the defendant's lawyer engaged in "inappropriate" behavior.

Plaintiff Joan Maraviglia filed a claim against defendant Irina Lokshina of Stony Brook University Medical Center for malpractice. The case was brought before the Appellate Division, Second Department, which unanimously voted that the defense counsel, Shawn Kelly of Kelly Rode & Kelly, had gone too far in a Suffolk County 5 week trial.

Attorney Kelly went after Ms. Maraviglia's main physician, who he portrayed as a corrupt "go-to" doctor for the County -- an office where workers may obtain the necessary paperwork for compensation benefits. Kelly insinuated Ms. Maraviglia and the doctor were engaging in this kind of abuse.

He also went after Ms. Maraviglia's expert anesthesiologist, whose part-time medical center was twice denigrated as a "parking lot." He also pressed the witness on a separate investigation irrelevant to both himself and to the case at hand.

Likewise, Kelly went after Ms. Maraviglia's expert economist by asking completely unrelated questions, such as one about the nation's foreclosure rate.

Kelly defends his "fair comment," but the court considered it "inappropriate," "inflammatory," and "improper." Although he was the reason the court ordered a retrial, Kelly expects to stay on the case.

Continued from page 1

Organizations such as the American Gastroenterological Association, the American Academy of Allergy, Asthma & Immunology, and -- most famously -- the US Preventative Services Task Force counsel fewer health screenings for many patients.

Commentary: Many of these medical organizations are telling us that basic tests are not "necessary," because of the increased cost. It also appears at times as if cost is more important than patient health and safety.

JIMMY CHANGA'S NEW ASSIGNMENT

Jimmy settled in after being offered congratulations on his latest mission. He was punk'd by the NSA's Ayatollah disguise.

He asked if he could get a beer and just decompress. Next thing he knew, he was being led down a flight of internal stairs to a room that looked like it was in the Vacation Luxury travel magazine.

The ceiling was sky blue. There were windows with mountain vistas as clear as the eye could see. Looking to his left, Jimmy swore there were two bikini-clad women walking toward him with two ice-cold beers. One was Dos Equis. The other, Budweiser.

He closed his eyes, thinking this was a hallucination. When he opened them again he realized this was real. How could this be?

After asking that exact question, he was treated to an amazing answer. "It's an altered reality room. It's like the 'room of requirement' in the Harry Potter books." When you envision it, it becomes reality. The coolest technology tricks your mind into believing that it's all real. It's wild.

Jimmy debriefed the National Security Advisor. Then, he was given his next assignment. Two new elections had taken place in Europe. France and Greece. Two new leaders. "We need to know how much longer these leaders have."

"Argh..." said Jimmy. "Can't I just hang out here for a while?"

"Actually, you can. Both of the newly elected officials will be visiting New York in the next month. You, my friend, will be

there to greet each one. Who knows, we might even have you dress up as Sascha Baron Cohen, the crazy actor who created those wacky movies. We'll see," said the NSA director.

Three days later Jimmy made plans to see a Broadway show. He hadn't been to see a show a long time. He called up a friend of his, Rachel, to accompany him and she gladly agreed, knowing she wouldn't have to pay for her ticket. What Jimmy did not know was that the person he would be sitting next to was his next interim assignment to learn how much time this individual had left on this earth.

It was not until he was in the theater that he was approached by an NSA agent a whispered in his ear that the person who will be sitting to his left is an "agent of interest." Simply shake his hand, do your thing, and report back. Enjoy the show!"

That wouldn't be too difficult.

As Jimmy went to take his seat with Rachel, he immediately recognized his target. It was none other than Mitt Romney, the presumptive Republican nominee who is running for the presidency of the United States.

Jimmy was surprised that there was no buffer or security agent between him and Romney, but figured the NSA agent had squared it away.

Jimmy reached over, introduced himself and shook hands with the man who will be the Republican nominee for the 2013 election for President of the United States.

What did Jimmy learn when he shook hands with Romney?

Join me next month when we follow Jimmy's antics in my never ending fictional story.



At Jerry's supermarket on Sanibel



Searching for fish





This is not just another Karate school with a set regimen of steps to follow and then you get a different colored belt every few months. This is a great disciplined environment where Chris, as the Sensei (teacher) goes out of his way to make sure the students learn; make sure they understand the concepts and importantly, know how to apply these ideas and practical applications in their everyday lives.

The true measure of a successful martial arts school is not how many levels of belts you have

BUSINESS SPOTLIGHT:

Today I spotlight Chris Johnson, an entrepreneur and owner of a Tiger Schulman Karate franchise here in Great Neck.

Chris is a high-level black belt and teaches kids and adults the benefits of martial arts. My 9 year old son is an active student in Chris's classes including grappling, kickboxing and mixed martial arts. You can always find Chris giving his students practical and ethical lessons on how to deal with school, life and family during class.



David eagerly watches as Sensei demonstrates a key grappling technique.



to award to your students. Instead, it is the number of parents and students who have put their trust in you. Your classes are always full and your students continue to want more and more.

I congratulate you Chris on your accomplishments as an avid martial arts teacher. Your excellence in teaching is a great quality.

Website Rejuvenation! Renewal!

Take a look around my newly revised website <http://www.Oginski-Law.com> (you can spend days on there) and let me know what you think of the new design and layout. Send me an email with your thoughts: Gerry@Oginski-law.com or tell me about it on Facebook or Twitter: #GerryOginski.



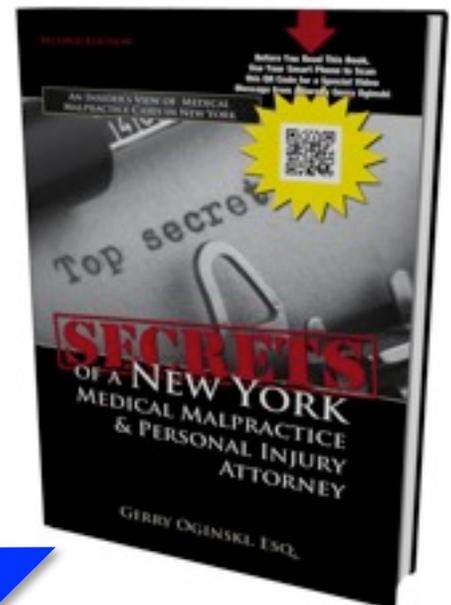
NEW BOOK!

My new 2nd Edition is out! 322 pages of useful content that will educate you and teach you how injury and accident cases work in the State of New York.

One of my new chapters talks about the “Lost Chance” or “Lost Opportunity” type of case. What that means is that because of someone’s carelessness an injured victim lost the opportunity to achieve an optimal result.

If you have a smartphone, go grab it right now and use it to scan the QR code you see on the cover on the right.

To get your **FREE** copy of my **NEW** 2nd Edition, just go to my website <http://www.Oginski-Law.com>. Enter your name and email in the form on the right side of the web page and you’ll get an immediate download. Enjoy your reading!



GERRY'S PHOTO GALLERY



Watching kite-surfing; Sanibel, Florida



In Captiva at Green Flash restaurant



David on the boogie-board



Just a few sea shells my wife picked in Sanibel. This is what our balcony table often looks like at the end of our Sanibel vacation.



A windy wedding location



David winding up for the little league pitch

Gerry's Trivia Game

TEST YOUR KNOWLEDGE OF NEW YORK LAW

TRUE OR FALSE?

1. Punitive damages are always included in a claim for accidental injury cases.
2. Punitive damages seek to punish the wrongdoer.
3. Compensatory damages seek to compensate an injured victim.
4. Non-economic damages are also known as "Pain & Suffering."
5. Pecuniary loss is the financial loss an injured victim or their family has suffered as a result of someone else's carelessness.
6. The collateral source rule requires you to turn over your lawsuit proceeds to your health insurance company.
7. Economic loss includes lost wages, medical bills and other expenses that you incurred because of the harm caused by someone's carelessness.
8. An economist is brought into court to tell the jury just how bad the economy is.
9. The amount you are awarded by the jury will be determined by a set schedule that the judge provides to the jury.
10. A jury must use their common sense to determine if and how much to award you in your accident, medical malpractice or wrongful death case in New York.

BONUS QUESTION

A jury award that awards you more compensation than you ask for is always reduced on post-trial motions and appeals.

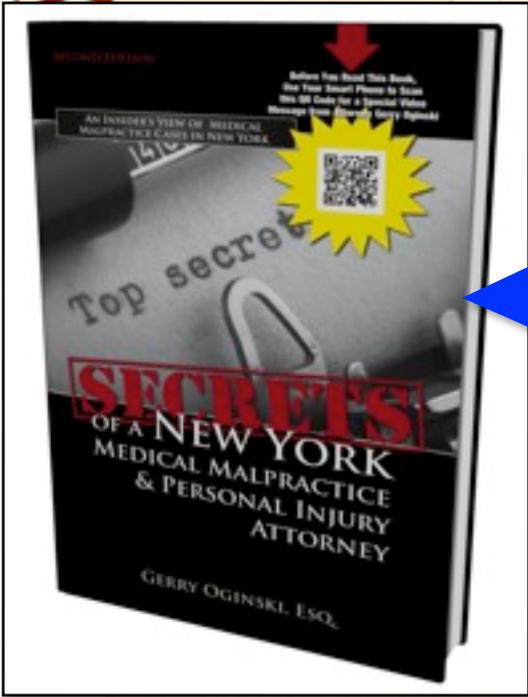
Answers are on the back page:



A picture-perfect sunset in Sanibel

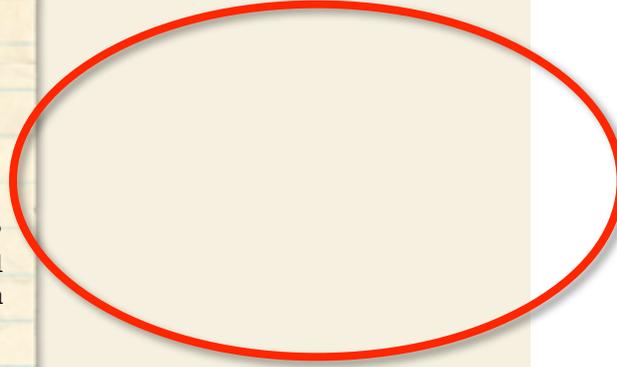
NEW YORK INJURY TIMES

THE LAW OFFICE OF:
GERALD OGINSKI, LLC
25 Great Neck Rd., Suite 4
Great Neck, NY 11021



GET YOUR **FREE**
NEW BOOK
2nd Edition!
Oginski-law.com

MAIL TO:



HAVE LEGAL QUESTIONS?
Pick up the phone and call. That's what I'm here for.
You can reach me at **516-487-8207** or email me: Lawmed10@Yahoo.com
I welcome your call.

NEW YORK INJURY TIMES

MAY 2012

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. True, 5. True, 6. False, 7. True, 8. False, 9. False, 10. True, BONUS: False

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.

516-487-8207