

# New York Injury Times

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Gerry Oginski, Trial Lawyer

## THANK YOU!

### A thank you and why it's so important-

The other day, I received a thank you note from a client of mine. What made the note so incredible was that the client thanked me for being a friend whom they felt they could call on at any time with questions. Why is that so special? Because most people don't look upon lawyers as a 'friend' but rather as vultures they're so often portrayed to be.

While it's true that many people would prefer to have an overly aggressive attorney on their side, it's important to remember how the attorney interacts with you and your side! The aggressiveness that we so enjoy seeing in a courtroom is not so fascinating when the lawyer is sitting with you in his office. Do you realize that most of us have a primary care physician or a family physician that we go to from time to time for check-ups? But how many of us have a 'family lawyer' they can turn to for legal advice? I don't know of any folks who have a 'family lawyer'. Why not? Well, for one thing, many lawyers charge for their time by the hour. Lawyers who handle injury and malpractice cases only take a fee if they win money for you (known as a contingency fee).

When I was growing up, and even when I was in high school, I had no idea what lawyers did for a living. I never needed an attorney, and even if I did, why would I want to speak to one? That's a common thought, and one that carries over to clients who visit us in our office. Many are apprehensive about disclosing personal details of their illness or background....**Continued at page 2...**

Gerry's book  
continued...page 3

### QUESTION TIME- Thought provoking brain teasers...

1. How much dirt is there in a hole 10 feet long, 3 feet deep, and 10 feet wide?
2. There are 15 sheep walking in a straight line across a field. Which sheep can look back and say, "I am the fourth from the last in line?"
3. What is the third hand on a watch or clock called (no digital watches please)?

...ANSWERS on page 4

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Turn to the next page →

THANK YOU!



# In This Summer Edition, We Look At

## Family-Friendly lawyers

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Continued from page 1

...which explains why it's difficult to get all the details that allow me to piece together the puzzle that makes up a valid case. When pieces of the story are missing or omitted, it makes my job so much harder.



Think about this: When I speak to a medical expert and send him (or her) a client's medical records to review, it is extremely important that we have all of the necessary documents. If some crucial piece of information is missing, my expert may come to a conclusion about your case that is inaccurate because he doesn't have everything he needs.



Imagine what happens if your case proceeds to trial and you don't tell me everything in your history or background and we don't learn it during the discovery part of your case. At trial you can be sure the defense will have learned it through their investigation and it'll blow up on you at trial. I guarantee it.

The defense will take the missing information and ask our expert the following questions:

- Q: Doctor, if you were aware that Mr. Jones was a drug addict, would that change your opinion of the case?
- Q: Doctor, if you knew that the patient chose not to take his blood thinner medications to prevent stroke, and he had a stroke, would that change your opinion about the treatment rendered by these doctors?

- Q: Did you know that Mr. Jones told the emergency room nurses that he wasn't allergic to any medication?
- Q: Assume the nurses asked him if he was allergic and he said no.
- Q: Assume that the nurses gave him penicillin because he specifically told them he wasn't allergic to any medications.
- Q: Assuming those facts to be true, and by the way, you know that he didn't tell the nurses he was allergic, right?
- Q: If he didn't tell the nurses he was allergic to penicillin, and they asked if he was allergic, are you still saying they are responsible for the reaction he suffered when he was given penicillin?

So what happened here? The expert doctor was never told that the patient failed to inform the nurses that he was allergic. He came to conclusions about the treatment based on incomplete and inaccurate information. The physician had to concede the point on cross-examination that *if he had not told the nurses about his allergy*, then there is no way the hospital could be responsible for his allergic reaction.

Let's look at it another way: Why would a



client with injuries hide information from his lawyer? The reasons are endless. Some clients feel that it's none of the attorney's business. Some don't like others to know their intimate details of an illness or personal details about their finances. Whatever the reason, a client that withholds information may seriously hamper and jeopardize their case.

The key is to let the attorney determine what information is important and relevant. If I know about a problem in the case, let's say someone was convicted of a crime in the past, I know how to deal with it properly and can advise you how to handle the questions that you will be asked. If you lie about your past history (Q: Have you ever been convicted of a crime?) that is literally the 'kiss of death' for your case.

Remember, your credibility is the most important part of your case. If you are found to have lied during your testimony, the Judge will instruct the jurors that they may disregard all or part of your testimony. This jury instruction is called "Falsus in uno," which means that if you lied about one thing, there is the possibility that you have lied about other things as well. How can a jury believe you if you cannot even acknowledge your past problems?

When an injured client comes to a lawyer for help they must build a mutual trusting relationship. You must feel confident with your lawyer and his or her abilities. If you don't, you should seriously consider getting another lawyer.

Can you become friends, or become friendly with your lawyer? Sure you could. Can you call him for legal advice about your case? Absolutely. "What if I have legal questions about other matters in my life that don't involve my case? Can I still call my injury lawyer for advice?" Sure you can. My clients do it all the time. I don't claim to have all the answers, but at least I know my abilities and my expertise. If a client asks for advice about a legal area in which I simply don't have experience, I will tell them so, and refer them to an attorney who I feel can best answer

their questions.

That's what a lawyer should be doing. It's important to know not just what you *do* know, but also what you *don't* know. Be wary of the lawyer who claims they know it all and can do everything. Being a specialist means knowing a lot about a specific area of law. Being a 'generalist' means knowing a little about a lot of law. The same is true for physicians.

Would you go to a neurosurgeon for a cold? No. Would you go to a pediatrician to do heart surgery? No. But...if you have a family lawyer (whether it's an injury lawyer or another type of lawyer) you can confidently call them and ask them for advice and rest comfortably knowing that if they don't know the answer, you'll be sent to someone who does. That's what a good lawyer does...he's a guide to help you navigate through your problems and get you the results you hope to achieve.

Shouldn't we all have a 'family lawyer' we can turn to for legal advice when we need it? It's really not a bad idea.

**Gerry's Book continued...**

Veronica Young was a smart, brash, and sassy lawyer who worked in the Justice Department. She was five years out of law school, and was a rising star over at Justice. She was assigned to prosecuting terrorists. At the moment, she was dating another lawyer who happened to work at the White House. This lawyer, Stan-the-man Blingpop worked for Jimmy the Hack Vargas, and was assigned to the National Security Agency. Over dinner one night at the swank restaurant '212', Stan-the-man inadvertently let slip that Jacob was working for The Hack. He'd had a few too many martinis with dinner and his tongue was fast and loose. He told Veronica all

about Jacob's ability to predict people's deaths. With a shocked expression she asked "You mean Jimmy the Hack has been using this information for his own personal benefit?" "Not for him personally, but for the good of the U.S. of friggin A!" slurred Stan-the-man. Unfortunately for Stan, in his drunken stupor, he apparently forgot that he just violated about 25 different national security rules and countless laws by telling Veronica about Jacob. He forgot that Jacob was now a National Security Asset to be protected at all costs. Well, as smart as Veronica was, she was also a naïve nationalist who believed that government should be just and pure. No secrets. That was her unspoken motto. After depositing her drunken boyfriend at his apartment, she retreated back to her own apartment in Georgetown. She tried to remember the name of a guy she had dated years ago...a reporter...his last name was Woodward. Bob Woodward. "That's him!" she thought. She got the phone number from the phone book and called him at home.

"Hello, Bob?" asked Veronica.

"Yes. Who is this? It's 2:00 a.m." said the sleepy Woodward.

"This is Veronica Young, we dated a few years ago," said Veronica as if trying to jog his memory.

"I don't remember you. Where did we meet?" he asked.

"Down at the Supreme Court cafeteria. I was watching an oral argument, and you were covering the story," she answered.

"Why are you calling me?" asked Woodward.

"I need to tell you a story about a man who can predict the future. The Government is using him to leverage anything they want from foreign leaders. I think we should meet...as soon as possible," said Veronica.

The next morning Veronica showed up at the diner promptly at 8:00 a.m. She was

happy and ready to tell the world all she knew. Woodward showed up at 8:15 a.m. looking hung over and very ruffled. They made their way to a booth.

"Who are you again, and who do you work for?" asked Woodward.

"I work at Justice. I'm a lawyer assigned to terrorist prosecutions. My name's Veronica Young. We dated a few years back, remember?"

"Sorry, I don't. It's been a wild few years for me," he lazily remarked while looking to get a cup of coffee. "So, what's on your mind?" he inquired.

"Well, I know for a fact that a young man named Jacob Morgan is working for the NSA. He can predict the future. He can tell when people will die!" stated Veronica with bold enthusiasm. "Yeah, and...?" said Woodward, waiting for a punch line.

"He goes everywhere with the President and meets all the foreign dignitaries. He predicts when each one will die. Jimmy Vargas then uses that information to get what he wants from the different foreign governments," she concluded breathlessly.

"And?" asked Woodward.

"And what?" said Veronica. "That's it. That's the story. It's a story about big government hiding secrets and not telling the public about it. It's about a man who can predict the future. Just think- his talents could be used for something really useful, like predicting the stock market!"

"Veronica. You say he works at the NSA? If true, then telling me this would violate at least five patriot act laws. It could subject you to criminal prosecution and probably a lifetime in jail. There are good reasons why some government activities are secret. So foreign governments don't know what we're doing! Anyway, assuming what you say is true, isn't

Brain teaser answers:

1. There is no dirt in a hole.
2. None. Sheep can't talk.
3. A second hand!

it beneficial for the United States to have the upper hand when dealing with foreign countries? Why shouldn't we use information to leverage our ability to further the interests of our citizens? You of all people, as a federal prosecutor should know that- especially one who handles terrorism cases," said Woodward with finality.

"But you don't understand. It's almost like he's an alien with special powers," screeched Veronica. "Ah, but I do understand. What you have is not newsworthy. Why do the citizens of this Country need to know that an NSA employee can predict when the Japanese ambassador will die? It won't matter to anyone, except the Japanese ambassador and the folks he represents. So if we can use that knowledge to our benefit, why not? Besides, I'd rather not see you in jail for the next 40 years," answered Woodward. "If you remember, there are laws on the books that prevent people from disclosing national security information. You cannot identify or disclose an NSA agent or even a CIA agent to the public. Doing so would end your career and your life. By the way, how did you get that information anyway?" asked Woodward.

"My boyfriend works for the NSA. He's based at the White House," said Veronica.

"Just a word of fatherly advice then; Remind your boyfriend he could do hard time for disclosing the information you've told me about. My suggestion is to forget about this entire episode. Hey, thanks for the coffee. What's your name again?" said Woodward.

With that comment, he got up and walked out of the diner, leaving Veronica to pay for the coffee.

Ten minutes later, while in a taxi back to his office, Bob Woodward picked up his cell phone and called his closest friend, Jimmy Vargas. "Jimmy, it's Bob...Woodward you idiot! How many other Bob's do you know who can call your private number at work?" yelled Woodward. "Listen, you've got a leak. You need to plug it up. Meet me at the Capitol rotunda at lunch time. Bye."

Two hours later, both men found each other staring up at the rotunda ceiling of the Capitol building. "Hi Bob," said Vargas. "Hi Jimmy," replied Bob. "I met a woman from Justice this morning who told me a story about a guy named Jacob Morgan who can predict the future." Jimmy's face turned white, then red, then skin tone again. The muscles in his face were contorting. The twitch that he had learned to control in his mouth reappeared. "Who?" demanded Vargas. "Wait. Let me finish." He told him everything he'd heard. Now, I'm not going to ask you to confirm or deny this, because I told her it wasn't newsworthy. I also told her that she's probably broken multiple laws governing espionage and the patriot act and disclosing this information could lead to life imprisonment," said Woodward.

"Who is it?" demanded Vargas. "She said her boyfriend works at the NSA and is stationed at the White House. Her name is Veronica Young- she's a young federal prosecutor handling terrorism cases."

"Not anymore," said Vargas with a tight grin on his face. "Thanks Bob. I owe you a big one. I'll see you later for that game of

ping-pong at the gym," said Vargas as he hastily made his way out of the Capitol building.

As soon as he returned to his office in the White House dungeon, Vargas summoned the head of the FBI. Vargas explained to him what had transpired. I want both of them prosecuted very quietly. Their careers are over. I want to know who the staffer is.

He called in his staff of three trusted aides who were assigned to the White House. "Oh, by the way, which one of you guys is dating that hot young thing over at the Justice Department, Veronica, uh, Young- that's her name!" he looked inquisitorially at the three of them. Stan Blingpop looked up when Veronica's name was mentioned. "I am sir. Why do you ask?" "No particular reason. I just saw a memo she wrote on a case she's working on, and heard that she was seeing someone over here. OK everyone, back to work."

After everyone left, Vargas called the head FBI man. "It's Vargas. His name's Stan Blingpop. He works here. I want him out now. I want her out now. No leaks. Thanks," said Vargas.

Jimmy decided he needed to tell the President about this release of classified information. "Good work Jimmy. Keep it up. I'm off for my Swedish massage now. Oh yeah, don't tell Hillary it's with Inga, she'll flip out. You know Inga, the stacked one with the light brown hair and the legs that go on forever. Hoo boy!" remarked the President. Vargas looked enviously at the President and left the oval office.

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