

The judge says "Call your next witness, Counselor." Your honor, at this time, I call Dr. Jones as a rebuttal witness. The defense attorney jumps up and says "Objection, Judge! Mr. Oginski hasn't notified us in a timely manner that he is bringing this rebuttal witness." You want to know what this is about? Come join me as I share with you some great information. Hi. I'm Gerry Oginski. I'm a New York medical malpractice and personal injury trial lawyer practicing law here in the state of New York. It's a beautiful day here in Great Neck. It's a bit chilly. It's about a week away from Thanksgiving. And now, I have this great information to share with you. So now we're at trial; it's a medical malpractice trial. And now, I decide to bring in a rebuttal witness to address a key issue that the defense's witness talked about and now I didn't have an opportunity to address. So now I go ahead and call my expert to the witness stand. And only that morning, right before I call my witness to the stand, do I notify my adversary that I'm bringing in a rebuttal witness. The moment I do, that defense attorney jumps up from the seat and says "Judge, we were never notified that Mr. Oginski was bringing in a rebuttal witness." So what happens next? So now, the judge calls the attorneys up to the bench immediately. "Counselors, step up to the bench." And now, I go up with my adversary and we have a conversation. It's actually a heated conversation. And what happens then? The judge wants to know did you notify your adversary in a timely fashion that you were bringing in a rebuttal witness? Now I have to give the judge an explanation, when this happens, about why I didn't have an opportunity to notify my adversary that we were bringing in a rebuttal witness. And the judge will want to know, when did I notify this expert? When did I contact the expert? When did the expert agree to come in to testify as a rebuttal witness? And why didn't I have an opportunity to notify my adversary that we were bringing in this type of witness? Now the defense attorney, on the other hand, his agenda is very clear. He doesn't want this expert testifying because it could have an adverse effect on his own case and he doesn't have an opportunity to properly prepare for cross-examination. So what are the judge's options in this case? The judge has a number of options in this scenario. Number one, he can agree to allow the witness to testify. Number two, he can immediately say no, you're not having this witness testify. Number three, another option, is okay I'm going to allow this witness to testify subject to connection. Now, what does that mean? It means that he's going to wait to see whether or not we can logically connect what this witness is testifying about with the issue that's in dispute. So why do I share this great information with you? I share it just to give you an insight and an understanding into what can happen when an attorney brings in a rebuttal witness without having notified the defense and give them an opportunity to prepare for cross-examination. You know, I realize you're watching this because you likely have questions or concerns about your own particular matter. Well, if your matter did happen here in New York and you do have legal questions, what I encourage you to do is pick up the phone and call me. I can answer your legal questions. You know, this is something I do every single day and I'd love to chat with you. You can reach me at 516-487-8207 or by email at Gerry@Oginski-law.com. That's it for today's quick video. I'm Gerry Oginski. Have a great day.