

My client is on the witness stand and forgets when he last saw the doctor in this medical malpractice trial. Can I use his pre-trial testimony to refresh his memory? You want to know the answer? 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 in the state of New York. It's a beautiful, chilly day today here in Great Neck. It's almost Thanksgiving and I was looking for my winter coat. I couldn't find it. I think my son took it so I took his winter coat, which is a fire department jacket, and you see his name embroidered here. Anyway, I have a few moments to share this great information with you. So now, my client's on the witness stand and I need him to explain to the jury when he last saw the doctor. And you know what he says? "Well, I think I saw him maybe in December. No, maybe it was January. No, I think maybe in February." Now, what's happening here? It means he doesn't remember exactly when it was he last saw this particular doctor. Now, I can always use, and I will get those medical records into evidence so we will know the precise date that he last saw the doctor but can I use something to refresh his memory rather than just say, hey, the medical records indicate you were last seen in the doctor's office on December 15th? The answer is yes, I can. Now, two years earlier he gave pre-trial testimony in my office where the defense lawyer questioned him about what happened, and when he was asked that same exact question, "Mr. Jones, when did you last see the doctor?" he had no problem remembering because it was two years earlier. It was closer in time to when this event occurred. And he said, "December 15th." I can pull out the transcript and then ask him a few questions about it. "Mr. Jones, do you remember being in my office about two years ago where you were asked questions by the defense lawyer as part of this case?" "Yes, I do." "And on page 17, line 9, you were asked this question: when did you last see my client? Answer: December 15th. Mr. Jones, does that refresh your memory about the question that was asked and the answer that you gave about when you last saw the doctor?" "Yes, it does." So now, what have I done? I've simply refreshed his memory based up testimony he gave two years earlier and we can do that all day long if we really need to. But the bottom line is, we can use documents like that to refresh a witness' memory. It doesn't just have to be a transcript. So why do I share this great information with you? I share it with you just to give you an insight and an understanding into what goes on in a medical malpractice trial, in a car accident trial and even in a wrongful death trial here in the state of New York. 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 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 quick video. I'm Gerry Oginski. Have a great day!