

He dropped his pencil while he was questioning my witness at trial. Was it an accident or was it intentional? 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 in the state of New York. It's cold. It's chilly out here today in Great Neck but I want to share this great information with you. So now, I'm in the middle of a trial. I get up to question my witness and all the sudden in the middle of questioning my witness, I notice that the jurors aren't paying attention to me and they're not paying attention to my client. Who are they paying attention to? I look over. They're paying attention to the defense attorney. What's the big deal? I look down on the floor. He dropped his pencil. Okay, so what's the big deal? Why are they all paying attention to this attorney who dropped this pencil? The reason why they are paying attention to him is because the defense attorney was disabled. The defense attorney had no arms and he had no legs. He had prostheses. So now, here he is, this attorney dropped this pencil. How was he getting this pencil? Well, he has this contorted mechanism where he gets up, he stands up, and he contorts his body and then he bends over, at the waist. And how does he pick it up? With his teeth. And that's exactly what he was doing. He was bending down to the floor and like a horse, grabbed something with his mouth, he was grabbing the pencil and now he has to contort his body all the way back up and sit himself back down in the chair. That's what the jury was paying attention to. Not my client. Not my questions. But the defense attorney. And I thought, that's remarkable. Okay, so I let that pass. A few minutes go by and all the sudden, I hear something fall. And I looked over at the defense attorney and I see, guess what? The pencil is on the floor again. Now, before the defense attorney had an opportunity to do his entire show by contorting his body and bending down with his mouth to pick it up, what did I do? I immediately ran over to where the defense attorney was sitting. I reached down to pick up the pencil and I put it down on his table. And then I whispered carefully in his ear. I said "If you do this again, I'm going to take this pencil and shove it right up your nose." And all the sudden, he was kind of shocked. He was like, what, what, what? And I calmly walked back to the jury area where I was questioning my witness and continued my questioning. Now, it wasn't until weeks later that I recognized that what he had done wasn't accidental. He didn't accidentally drop his pencil. This was intentional. And why did he do that? In all likelihood, to divert the jurors' attention from what I was trying to do when getting information from my client. So why do I share this quick story with you? I share it with you to give you one instance where a defense attorney used a particular strategy to divert attention away from what I was trying to get at to the jury all because he dropped his little pencil. You know, I realize you're watching this because you've got questions or concerns about your own particular matter. Well, if your matter did happen here in the state of 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.