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Orthopedic expert wanted \$12,500 to testify at trial

It was an orthopedic malpractice case and, my medical expert wanted \$12,500 to come into court and testify just for a morning. How outrageous was that? Come join me for a moment as I share with you exactly what this is about. Hi, I'm Gerry Oginski, I'm a New York medical malpractice and personal injury attorney practicing law here in the state of New York. This is an orthopedic malpractice case. We claim that the orthopedist violated the basic standards of medical care causing my client significant harm and injury. Now when I first started the case, actually before I first started the case, I had to have a medical expert review all the records to confirm that there was in fact the basis to proceed forward. Once I got confirmation from this orthopedic expert, now I went ahead and started the lawsuit. Now the litigation went on for about 2 1/2 years, and the case proceeded to trial.

Now as I'm approaching the trial, I had to get my orthopedic expert lined up, ready to go. I had to prepare with him, I had to meet with him. I had to discuss with him exactly what was going on during the course of trial. Do you know how much he wanted to come in and testify? He wanted \$12,500 for a morning of his time. Now what can I do in that situation? Can I negotiate with him, say, doctor, look, that's ridiculous. Nobody is going to charge \$12,500 to come in just for a morning of their time. No doctor's time is worth that much. You know what he said to me? He said, "I make 2 or 3 times that much for my surgeries that I do in a morning." I said, "That's great." He said, "No, you don't understand, I'm taking my morning off not doing surgeries so that I can come in and help this injured victim, so I explain to the jury what happened here. Now that's my fee to come in from my time."

What do I do as the plaintiff's attorney representing the injured victim? Do I turn around and say, no, that's too expensive, I'm going to

go and try to find the cheapest orthopedic expert I can. Well, number 1, it's too late by then. We're already at trial. Number 2, I don't want the cheapest expert around. I want the best medical expert I can find with the best credentials to be able to explain to the jury what happened. Did I have to pay him? Absolutely, I had to pay him. Otherwise, I can't go forward with my case. We need a medical expert at trial to go ahead and explain to the jury why there was wrongdoing and why the wrongdoing caused injury and why the injuries are significant and permanent. That allows us to get the case into and in front of the jury. Now the jury can answer the question about whether or now we are more likely right than wrong, that what we are claiming is true.