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They're using the empty chair defense!

Have you ever heard of the empty chair defense? If the defense uses this, is it a good defense? Can they get away with it? You want to learn what this is? Come join me for a moment as I share with you some great information. Hi, I'm Gerry Oginski, I'm a New York Medical Malpractice and Personal Injury Attorney Practicing Law in the State of New York. The empty chair defense is where the defense attorney argues to the jury, "Hey, look at this. Oginski sued my client. Well, guess what? He sued the wrong person. The person who's really responsible for his client's injuries are Dr. Jones. Why didn't he bring Dr. Jones in? Dr. Jones is the one who did everything wrong here. Dr. Jones saw this patient before hand. Not my client. My client isn't the one who caused these injuries."

It's known as the empty chair defense where you basically point a finger at an empty chair and argue that they failed to sue the correct person. They failed to sue the correct hospital or company. As a result of that, "Hey, don't blame me. We're the good guys. We're not responsible for what happened. It's that guy. That guy who's not here. Who's responsible for not bringing him here? It's Oginski. He was the one who should have brought him in. He is the one who has an obligation to bring in and sue everybody who is involved with causing this client harm."

The empty chair defense can be a very effective tool to push off responsibility against somebody who is not even in the litigation. Does it work? Sometimes it works. Sometimes it creates a huge smoke screen and diverts the jury's attention from the real issues in the case. We have to make sure that the jury understands why Dr. Jones isn't in the case and why we believe he had nothing to do with it. That should be a tiny little footnote having nothing whatsoever to do what the real issue is in this case.

We have to get the jury to refocus on the key issues in the case and not on the fact that the defense is trying to create a smokescreen to avoid responsibility to say, "Hey, don't blame us, it's that empty chair. Where is that person? Why isn't he in this lawsuit?" You know something really interesting? If the defense really believes that that doctor or that careless person should have been brought into this lawsuit, you know what they could have done? They could have brought him in by themselves. How often do you hear about a doctor and his attorney sue another doctor for his own carelessness?

It happens very, very infrequently. Not very often but it does happen from time to time. When it happens, it's remarkable. "Hey, we sue Dr. A, Dr. A then sues Dr. B."

Now, we argue to the jury, "Hey, it's all Dr. A's fault." Dr. A says, "Hey, don't blame me. It's not my fault. It's Dr. B's fault." Dr. B turns around and says, "No, it's Dr. A's fault or hey, don't blame me, I had nothing to do with it." Why do I share this quick information with you? I share it with you just to give you an insight and an understanding into what goes on in the civil lawsuits involving medical malpractice and accidents and even wrong for death matters.

I realize you're watching this video because you likely have questions or concerns about your own particular matter. If your matter did happen here in New York and you're thinking about bringing a lawsuit but you have legal questions that need to be answered, then I invite you to pick up the phone and call me. I can answer your legal questions. 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 video. I'm Gerry Oginski, have a great day.