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## **“We’re legally responsible so let’s try damages only,” defense lawyer says**

The defense attorney calls me shortly after we start this medical malpractice lawsuit and says, "Listen, I know my doctor was totally wrong, and we admit liability. Let's avoid liability totally in this case and go straight to trial on damages." Do I say, "Yes"? or do I say, "No"? Do you want to know the answer? Do you think you know the answer? Come join me for a moment as I show 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. My client is furious that the doctor violated the basic standards of care and caused her significant injury. Now the defense attorney calls me and tell me, "Listen, Gerry, I know that the doctor violated the basic standards of care. I know he was liable. I know this was medical malpractice. Our experts confirm that. So instead of going through the entire litigation process, two years' worth, how about we just short circuit the process and simply agree to try this case on damages alone? We'll admit liability, and just evaluate this case on damages alone." What do I say?

It depends on the facts of the case. It depends on my client's frame of mind. If they admit liability, and now they're simply focused on damages, that may help us. It may be a good strategy for us to take, because now they recognize they can't defend the case on liability, so there's no reason for them to try. Instead, they're now going to try the case on damages, which means they're still going to fight us tooth and nail on the value of your case. Even though they recognize and acknowledge that they are responsible for your injuries, they still do

not recognize and acknowledge the extent and the value of those injuries.

Let me share one drawback with you that can happen if we agree to that. At trial, the jury will never hear about how egregious, and how terrible the doctor's conduct was that actually caused and contributed to my client's injuries, and because they don't hear about that, they may not have the same type of anger that they would if they heard all about what the doctor did and failed to do, and caused my client's harm and injuries, all because of his carelessness. It may be a double-edged sword. We may want the jury to hear everything that the doctor did in order for them to fully understand why my client suffered her injuries, even though the defense readily admits and acknowledges that they are responsible for my client's injuries.

Why do I share this quick information with you? I share it with you just to give you an insight of what goes on in a medical malpractice case where the defense attorney comes to me and says, "Listen, we accept and admit liability. Let's just go straight to damages." Maybe yes. Maybe no.

You know, I realize you're watching this video because you have questions or concerns about your own particular matter. Well, if your matter did happen here in New York and you're contemplating bringing a lawsuit, but you have questions that need to be answered, what I invite 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 e-mail at, [Gerry@oginski-law.com](mailto:Gerry@oginski-law.com). That's it for today's video. I'm Gerry Oginski, have a wonderful day.