



**LAW OFFICE OF GERALD
OGINSKI, LLC**

67 Cutter Mill Road
Great Neck, NY 11021

T 516-487-8207

Gerry@Oginski-Law.com

What's the difference between cross examination and direct examination?

What's the difference between short leading questions on cross-examination and open-ended direct exam questions during the course of direct examination? Would you like to learn the answer to this question? If you do, come join me for a moment as I share with you some traffic information. 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.

There is a clear distinction. When I get up to question a witness that I have called to the stand, he's going to be testifying in our favor to explain to the jury our set of facts. In that instance I want to be able to ask my witness open-ended questions. That's known as direct examination. "Mr. Jones, tell me what happened next. Tell us what did you do next? Can you explain to the jury how that happened?"

Now the witness is going to go ahead and and he has the opportunity to explain away and take as much time as he needs to tell the jury what happened in his own words. Those are open-ended questions and we're going to use those type of questions such as who, what, where, when, how, and why, to give the witness the opportunity to explain to the jury in their own words exactly what happened and what they observed.

Now, contrast that with the use of cross-examination. Cross-examination is designed to really search for the truth, to probe the truth, to test the witness' credibility. I never ever want to give that witness who I'm cross-examining ... it's the other side's witness ... the opportunity to explain. You know why? Because if I asked an open-ended question to the other side's witness, he's going to take that

opportunity and turn to the jury and tell them a whole story and I'm going to lose control of that witness and get out the information that I need to the jury.

Instead, I'm going to be asking short leading questions that only require the witness to answer yes, no, or I don't know. "Mr. Jones, isn't it true that at the time of the accident you were proceeding through the intersection of 1st Avenue and 23rd Street?" "Yes I was." "Your intention was to go home, wasn't it?" "Yes." "The accident happened at about 5:00, isn't that true?" "Yes." "There was nobody in the car with you, correct?" "Yes." "Your windows were rolled up, isn't that true?" "Yes." "You had the radio on, isn't that correct?" "Yes." "By the way, you wear eyeglasses, true?"

What am I doing? I'm literally establishing certain statements, making statements in my questions. I either want the witness to agree with me, disagree with my question, or say that he can't answer the question. In that instance I'll ask him a different leading question. There's a huge difference between cross-examination style questions and direct examination questions depending upon whether I am calling the witness to testify or my opponent is calling the witness to testify.

Why do I share this quick information with you? I share it with you just to give you an insight into what goes on in these civil lawsuits involving accident cases, medical malpractice cases, and even wrongful death cases here in the State of New York. I recognize 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, what I invite you to do is 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 wonderful day.