



**LAW OFFICE OF GERALD  
OGINSKI, LLC**

67 Cutter Mill Road  
Great Neck, NY 11021

T 516-487-8207

[Gerry@Oginski-Law.com](mailto:Gerry@Oginski-Law.com)

## Which medical expert is more likely to be believed?

The doctor swears he treated my client appropriately. My medical expert said he definitely did not treat my client appropriately. Who's right? Who's wrong? Who's more likely to be believed at the time of trial? My medical expert or the doctor who treated my client? You want to know the answer. Come join me for a moment as I share with you some remarkable information. Hi, I'm Gerry Oginski. I'm a New York medical malpractice attorney practicing law here in the state of New York. So, now in a medical malpractice case, we have to obtain a medical expert who's reviewed my client's records and confirms that we have a valid basis for a case. My expert has to confirm that there were violations from the basic standards of medical care and that those violations or deviations from the standard of care caused or were a cause of my client's injuries. Now, the defense doctor is always going to say, "Of course I treated the patient appropriately. I did everything right and the patient's injuries had nothing to do with what I did or didn't do."

So now there's a clear dispute. The doctor says he didn't do anything wrong. My expert said he did. Who's the jury to believe once this case goes to trial? The reality is the jury has to evaluate the credibility of each of these witnesses. They have to evaluate the credibility of the doctor who you are suing. They have to evaluate my medical expert's credibility. They will evaluate the credibility of the defense's medical expert who they bring in. Now, you will hear sometimes that the defense is going to bring in one expert after another, after another, after another for the sole purpose of showing to the jury that they have many more experts than we do. Well, guess what? If I don't tell the, the judge is certainly going to remind them that just because they bring in ten experts, doesn't mean that they have greater weight than my one expert or two experts or three experts.

The mere fact that there are a greater number of medical experts coming in to testify does not mean at all that they carry greater weight. So, who does the jury believe. The jury will have to decide who they believe based upon the testimony that comes out, based upon how the witnesses present themselves to decide for themselves who they believe and whether or not we are more likely right than wrong and that what we are claiming is true. Because remember, in these civil lawsuits, we don't have to show with 100 percent certainty that what we are saying is correct. In fact, the jury doesn't have to be there in the jury room deliberating for days and days trying to make sure that what we are claiming is 100 percent true. Instead, we only have to show that we're more likely right than wrong, which means that we tip the scales ever so slightly in our favor. The slightest amount that we're more likely right than wrong, then the jury is obligated to give us a verdict in our favor.

So, why do I share this terrific information with you? I share it with you just to give you an insight and an understanding into how these cases work here in New York. 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, in fact, happen in New York and you're thinking about bringing a lawsuit, but you've got 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. You know, this is something I do every day and I'd love to talk to you. You can reach me at 516-487-8207 or by email at [gerry@oginski-law.com](mailto:gerry@oginski-law.com). That's it for today's video. I'm Gerry Oginski. Have a fantastic day.