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## Why am I allowed to ask leading questions at trial?

Did you know that when I question a doctor at trial during cross-examination, I can ask him short, leading questions to get information from him? You want to know what this is about and why I'm asking this? Come join me for a moment as I show you some terrific information. Hi, I'm Gerry Oginski, of the NY Medical Malpractice and personal injury attorney, practicing law here in the state of New York.

Let's say it's a medical malpractice case, and I call to the witness stand the doctor who you have sued. I am now permitted to question this doctor as if it is cross-examination. You might be thinking that if I call a witness to the stand, I'm actually vouching for this witness's credibility. That is true, except in a medical malpractice case, where the doctor that we are suing is my first witness. Why is that? It's because he's an adversarial witness, and I need the doctor to give testimony and information to the jury about what it was that happened, what complaints you made, what treatment he rendered, and what he did to take care of you. Now, when I have an opportunity to question him, I'm going to be asking short, leading questions. I am not going to be asking open-ended questions, such as, "Doctor, tell us what you did next." "What did you do after that? What did the patient say?"

The doctor will have the opportunity to answer all of those open ended questions by his own lawyer, the defense attorney. When I question him, I only want the doctor to either agree or disagree with my question. "Doctor, do you agree, that on this date, my client, Mrs. Jones, came into you to be seen?" "Yes." "Do you agree that on this date, she made the following complaint?" "Yes, I do." "On that date, you saw and examined her, isn't that true?" "Yes." "During the course of your examination you made notes in your record, isn't that right?" "Yes." "After the patient made the following complaint, and you made some notes, isn't it true you conducted an examination of the pa-

tient?" "Yes." "As part of your examination, you did A, B, and C."  
"Yes."

All I'm trying to do is get the doctor to agree or disagree with me, or say, I don't know or I can't answer the question. At no time, ever, do I want the doctor to give an explanation. I will also ask him very clear and concise questions known as a hypothetical question. The whole purpose of that is to get the doctor to either agree or disagree with our set of facts, and that if he did not do A, B, or C, that would be a violation from the basic standards of medical care. Do you agree or disagree? You will find that really good trial attorneys, who handle medical malpractice cases, will always try and keep a doctor on a sort leash by asking only short, leading questions, that call for yes, no, or I don't know.

Why do I share this great information with you? I share it with you just to give you an insight and an understanding into what goes on during a trial in a medical malpractice case here in New York. I understand, and I recognize that 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 law suit, 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](mailto:gerry@oginski-law.com). That's it for today's video. I'm Gerry Oginski. Have a wonderful day.