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If you fail to mitigate your damages can you still get compensated and get money for your injuries?

You failed to mitigate your damages. Can the jury still give you a verdict in your favor and can you still obtain compensation for all the harms and injuries you suffered even though you failed to mitigate your damages? Do you want to know what this is about? 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 lawyer practicing law here in the state of New York. The answer is, "Yes," the jury can still give you compensation even though you failed to mitigate your damages. What does that mean? Failing to mitigate damages, that means that you've not taken advantage of the opportunity to try and minimize or reduce the injuries that you have.

Let's say you suffered injury because a doctor was careless and violated the basic standards of medical care. Now, you've been told that there is certain procedure or treatment that you could have that will now reduce, or eliminate, or try and minimize the amount of pain and problems that you're having currently. For whatever reason, you've chosen not to go ahead and have those additional treatments. Now, the defense turns around during the course of your lawsuits and says, "Hey, don't blame us for all of the injuries and all the pain and all the damages you're having. You had the opportunity to try and reduce and minimize those injuries. We shouldn't be held legally responsible to have to compensate you, to pay you, for all the pain that you're having from now into the foreseeable future."

That's a very compelling argument and the defense will make that argument to the jury. If the jury buys that, if they accept that fact that the patient failed to reduce and minimize her injuries when she was given the opportunity to. Then hey, they shouldn't be compensating the injured for all of those pains, all of those harms if she had an opportunity to make them less. Now, there may be very good reasons, justifications, for why this patient did not have those treatments. Maybe they were too risky. Maybe the patient was afraid. There could be lots of different reasons, so now, the jury could ultimately decide that, "Yes, you failed to take advantage of those surgeries, those procedures that would reduce and eliminate the pain that you're having."

At the same time, they could also find that the doctor was careless and violated the basic standard of medical care and still compensate you for your injuries. What they might do, though, is they might reduce the amount of compensation that you're going to get. They might decide collectively, as a jury, to say, "You know what? Your injuries were worth a million dollars but because you have failed to reduce your injuries we don't think the doctor should be held responsible for paying all of that one million dollars." Now, they come to some other number that's less than what they think the true value of your injuries really are. I acknowledge and I recognize you're watching this video because you likely have questions or concerns about your own particular matter.

If your matter happened here in New York, and you're thinking about bringing a lawsuit but you have questions that need answers first, 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 talk to 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.