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Judge yells at me for asking a question about a topic I was told not to talk about

The judge yells at me while I'm cross-examining a witness and says, "Counselor, I told you not to bring that topic up." What does that mean? Why would the judge be yelling at me for something that I'm trying to get out of this particular witness on cross-examination? You want to know the answer? 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 attorney practicing law here in the state of New York. Now it's cross-examination. It's a medical malpractice case. Now I have a doctor on the witness stand, and I ask him a question that draws an immediate objection from the defense lawyer. He stands up and screams out, "Objection!" The judge turns to me and says, "Mr. Oginski, I told you not to go there. This topic is off limits."

Now why am I bearing the brunt of the judge's wrath, and he's yelling at me? It turns out that earlier on in the trial there was a specific area that we were told not to talk about. It had to do with legal issues unrelated to the claims that we were making and unrelated to the defenses that were being raised. Maybe I wanted to let the jury know that this doctor was arrested or being investigated from Medicare fraud. Guess what? Being arrested or being investigated has no real bearing on the claims that we're making or the defenses that are being raised. That could be highly inflammatory and prejudicial. The judge would be well within his right to yell at me and tell me not to go there. Now you should know that if I push the judge's buttons, and I keep asking the question over and over again in many different ways, the judge can finally turn around to me and punish me, fine me, sanction me for improper conduct, for doing something that the judge specifically told me not to do during the course of trial.

The judge may determine that my comments, my questions, repeated questions inflame the jury, maybe prejudice the jury and now didn't give the defense a fair shot, or the judge could ultimately let the case go to a verdict.

Then after the verdict comes in in our favor he might turn around and say, you know what, I don't think this verdict is appropriate. I think you inflamed the jury. They became prejudice when you kept asking those questions, and now I'm going to have to reverse the verdict and throw the verdict out. That's a possibility. When you ask a question that the judge has told us to stay away from, a good idea is to stay away from it. Now there's one thing I have to tell you. If I truly believe that the law is on our side and is correct, then I have a legal and ethical obligation to bring that up to the court and to ask the witness questions about it.

If the judge disagrees with me, now I can't start yelling and screaming at the judge. I have to respect the judge. He is the authority in the courtroom. If I disagree with him, I have to politely and respectfully make an objection on the record to explain my reasons why I need to ask this information so that if later on we lose the case, I now have the opportunity to bring this issue up on appeal and let a higher court evaluate the issues and whether or not this judge made the correct decision. I realize you're watching this video because you 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 questions that need answers first, what I encourage 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 fantastic day.