

NEW YORK MEDICAL MALPRACTICE LAWYER GERRY OGINSKI PRESENTS

YOUR CASE IS
WORTH MILLIONS!!

NEW YORK INJURY TIMES

JULY 2013



Family time at a Greek restaurant



Horsing around for photos at a family bat-mitzvah

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YOUR CASE IS WORTH MILLIONS!

“I guarantee your case is worth millions!” The attorney said to the new potential client.



Shari & David at the Memorial Day parade

An injured woman was looking to hire the best attorney for her case. She was given a referral by someone who used this attorney in the past. The referral said great things about this lawyer. Naturally, she made an appointment to see this attorney.

He had a beautiful office. He was dressed magnificently. His shoes were so shiny that you could see your reflection in them. By the end of the one-hour consultation the attorney stood up and said “Your case is worth millions! All you need to do is sign this retainer to get started and we will have you on your way.”

If you ever hear an attorney in New York guarantee that your case is worth millions of dollars, ask him how he can know that. Ask him how he can evaluate the full value of your case if he has not done any investigation whatsoever on your matter.

Ask the attorney who guarantees that your case is worth a specific amount of money to put that promise in writing. Watch what happens.

Did you know that no attorney in New York can ever guarantee a particular result? It's simply impossible. Even if the attorney has handled many cases identical to the one you have and has experience handling these exact types of cases, even then he is not permitted to promise or guarantee that he can get the same result that he got in prior cases.

There are many reasons for that. Your particular case may have certain issues that could alter the value of your case.

There are some attorneys who make outrageous statements like this in order to entice you to simply sign up with that lawyer or law firm.

If the attorney is unable to achieve the type of result he had promised initially, I can pretty much guarantee you will be extremely unhappy at the end of your case.

Why do I share this information with you?

So that you will be aware of what to look for in the event an attorney promises or guarantees you a particular result in your particular matter.



David, Joseph, Shari & Mia at lunch

A dentist violated the basic standard of care in failing to know the dental anatomy. She was only 15 years old. This violation of the standard of care will cost her time, money, embarrassment, and much more.

She was only 15 years old.

She had been to the orthodontist since her teeth were crooked and were crowding. The orthodontist evaluated her and determined that in order to create an orthodontic treatment plan, she would need to have some of the baby teeth in her mouth extracted.

This sounded reasonable. It made sense. By allowing some baby teeth in her mouth to be removed, it would allow her mouth and jaw to be less cluttered and permit the application of braces in a timely fashion.

The orthodontist did the correct thing. He prepared an itemized document that set forth exactly which teeth she needed to have removed. Again, he did the right thing by not handing that piece of paper directly to the patient or the patient's mom, and instead sent it directly to the dentist by mail.

This 15-year-old girl and her mom went to the general dentist and explained the need for the extractions according to the orthodontist. By the time of their arrival, the general dentist had received instructions from the orthodontist and agreed to proceed forward with the teeth removal.

The extraction process went relatively smoothly and neither the patient or her mom were aware of any issues or problems.

Many months later when this 15-year-old girl returned to the orthodontist for follow-up, the orthodontist was puzzled. There were two gaps in her lower jaw where the patient's adult teeth should have been erupted and coming in. These were empty spaces and nothing was coming in.

X-rays of the lower jaw revealed something unusual.

When comparing them to the original x-rays it was obvious that

this young girl's permanent teeth in her lower jaw were missing! That explained why there were no teeth that had erupted into the lower jaw.

The orthodontist was at first confused. Upon looking back at the original instruction sheet that he sent to the general dentist, he asked specifically to have specific teeth removed. He never asked to have any permanent teeth removed.

However, looking at the x-ray it was obvious that not just were baby teeth removed, but two adult teeth as well.

This created a significant treatment plan problem for dealing with her orthodontics as well as what to do now that the patient's permanent teeth were missing from her lower jaw.

After having a dental expert review the records and x-rays, it became readily apparent that the general dentist who extracted the teeth and the lower jaw **violated the basic standard of care.** He failed to know, learn

and understand the dental anatomy before taking action in removing what would later turn out to be a permanent and lifelong action.

This dentist, if you had doubts or questions, should have stopped what he was doing and consulted a colleague to get the proper bearing and understand where he was within the dental anatomy before performing the extraction.

As an alternative, he could've easily sent the patient out to an oral surgeon who, most likely, would've had a clear understanding of the patient's dental anatomy and prevented this tragedy from occurring.

The purposes of having standards of care is to prevent mistakes like these from happening everyday.

Amazingly, the defense acknowledged and admitted that the doctor violated the standard of care. Despite the fact that the defense admitted readily that the dentist had violated the standard of care and pulled out the wrong teeth, it was not until just weeks before we were scheduled to begin jury selection in this case that we were able to successfully resolve this case for the benefit of my clients.



WILL NEW YORK EVER BE SAFE FROM DRUNK DRIVERS?

Imagine walking home after hanging out with your friends. You look left and right before crossing the street, taking all the necessary precautions to ensure your safety. But sometimes you can take all the precautions possible short of never leaving your house, and still fall victim to a tragic accident.

Unfortunately on September 3rd, 2012, a 15-year-old girl crossing the street with her bike was viciously hit by a car.

The driver of the car, rather than stop immediately to check on her safety, continued to drive. This action caused the adolescent to be pinned underneath her bike and dragged by the vehicle **for over 600 feet**.

The victim suffered such serious injuries such as road rash that the skin on her knee and elbow were completely removed and her joints were exposed. Even after extensive skin grafts she will have permanent scarring and may need surgery for her injured tendons in her left hand.

After the victim finally fell away from the car, the driver continued to drive and hit a parked vehicle and drove up on the sidewalk before coming to a stop in the street and falling out of his vehicle.

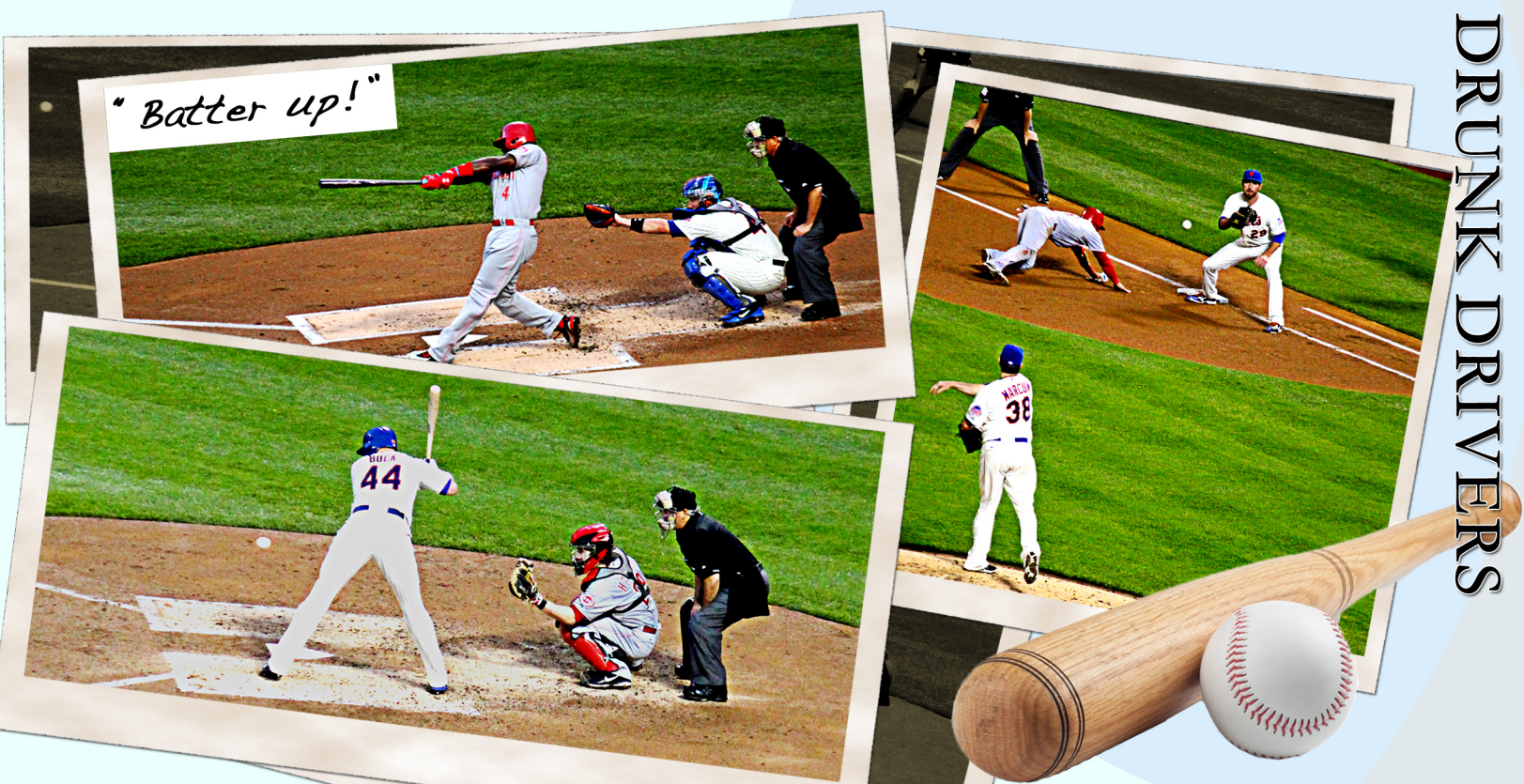
When the driver was apprehended by officers, according to the police he admitted to consuming "Like, a thousand drinks," and five hours after the incident he registered a blood-alcohol content reading of .30 percent, three times the legal limit.

The driver plead guilty on Thursday, May 16th, 2013 to the charge of first degree assault, depraved indifference, aggravated driving while intoxicated and leaving the scene of an accident with serious physical injury. In exchange for his guilty plea, the driver was promised a sentence of eight years.

This 15-year-old victim had no clue that on September 3rd she would have to cling to life simply because a 50-year-old man decided to get behind the wheel while heavily intoxicated. Not only did this man strike her but in a drunken stupor he didn't even seem to care, and instead bragged to the police about his drinking abilities. How can we make our streets safer from inebriated drivers?

Importantly, what kind of deterrence can our legal system create to prevent people like this from ever getting behind the wheel of a car again? Let me know your thoughts.

NEW YORK INJURY TIMES - DRUNK DRIVERS



YOU ARE TRYING TO NEGOTIATE A SETTLEMENT...

NEW YORK INJURY TIMES - NEGOTIATE A SETTLEMENT

You are trying to negotiate a settlement. You are arguing. You are negotiating. All of a sudden you reveal a weakness in your case. Suddenly, there's a breakthrough and you have magically increased the value of your case, simply by admitting a weakness...learn why.

There are some lawyers who will tell you never to admit a weakness. They think that by admitting a weakness, you're giving away secrets the defense would never have learned of and never use to their advantage.

In my opinion, that type of thinking simply does not work.

Experienced defense attorneys go through the same analysis that we do when deciding whether or not this is a case to take to trial and whether it is defensible. They will utilize their experts to come up with their strong points as well as their weaknesses.

When settlement negotiations are taking place, the defense attorneys will always point to our weaknesses in an attempt to get us to reduce the value of our case.

During settlement negotiations, an attorney who represents an injured victim has a number of strategic choices.

1. He can acknowledge the weakness,
2. He can ignore it,
3. He can put his head in the sand and pretend it does not exist,
4. He can discuss it and workshop it, among other strategies, of course.

The reality is that by admitting a weakness it allows you to move on and discuss those strengths which clearly establish not just the wrongdoing and carelessness but also the strength of your damages.

Settlement negotiations involve straightforward conversations with the defense lawyers.



On a personal note, you gain much more credibility by recognizing and admitting there is a weakness in your case. Your goal is to minimize that weakness and then stress the strong points that obviously support your claim for significant compensation.

When negotiating with the judge in court, you also gain significant credibility by admitting a weakness.

There is absolutely no way to hide weakness during settlement negotiations. If you refuse to acknowledge and recognize that there are some types of weaknesses in your case, you will lose credibility with your adversary and with the court. You cannot ever pretend a weakness does not exist because every case, no matter how strong, has weaknesses.

Many injured victims do not want to hear about weaknesses in their case when you have a heart to heart discussion about the value of their case. Instead, they mostly focus on the wrongdoing that occurred without giving any thought to the possibility that there are weaknesses in the case and strategies that can be used by the defense to minimize the value of what you perceive your case to be worth.

THIS STRATEGY WORKS WELL OUTSIDE OF LAW TOO...

By the way, this specific strategy works very well not just when negotiating a medical malpractice case, an accident case, or even a wrongful death case. This works well when discussing issues with friends, family, coworkers, colleagues, and when disputes arise with our friends and loved ones.

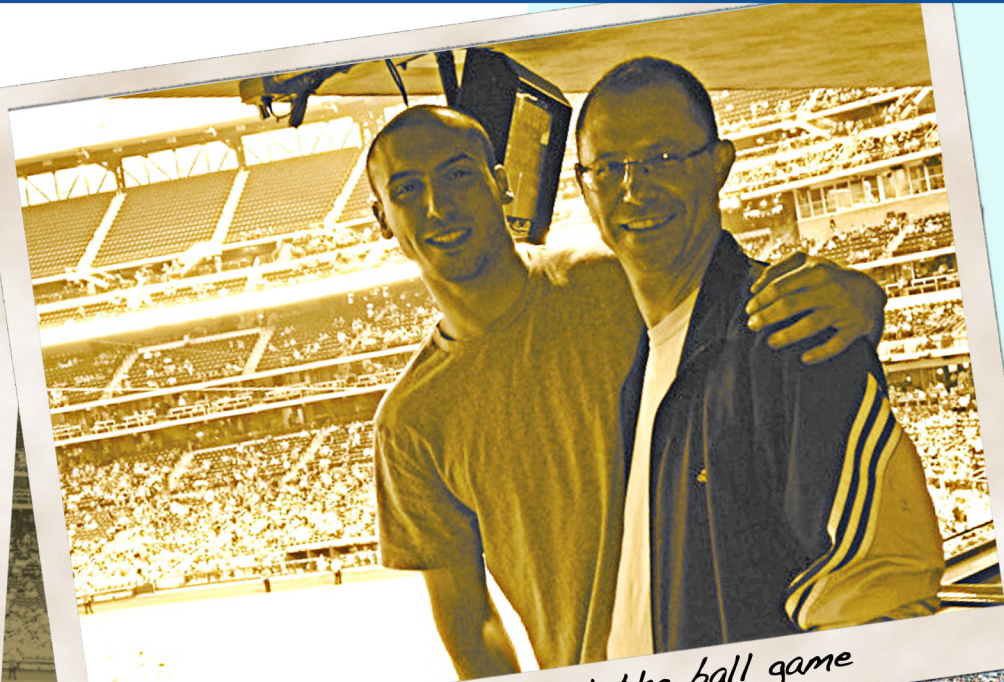
By admitting a fault or weakness, the other side immediately recognizes that you acknowledge there is weakness. Their defenses immediately go down and now they become much more receptive to the likelihood that your case has significant settlement potential and are working in good faith to try and resolve this matter.

The key strategies for learning how to make this work is to accept, recognize and admit a weakness and then focus on your strengths. It makes a huge difference.



GERRY'S PHOTOGRAPHY

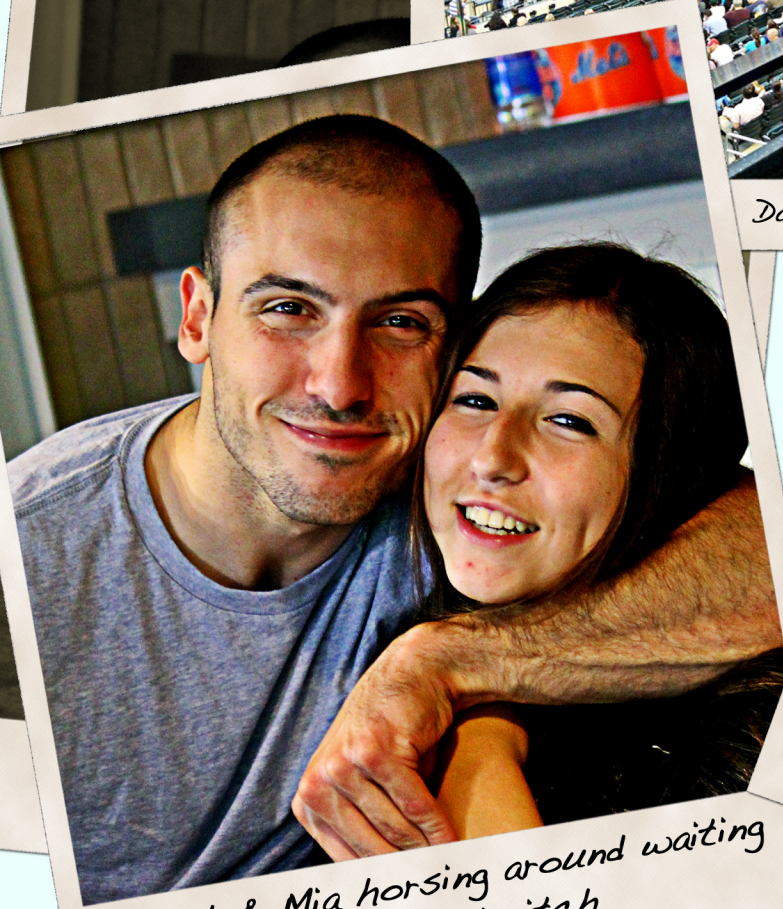
NEW YORK INJURY TIMES - PHOTO GALLERY



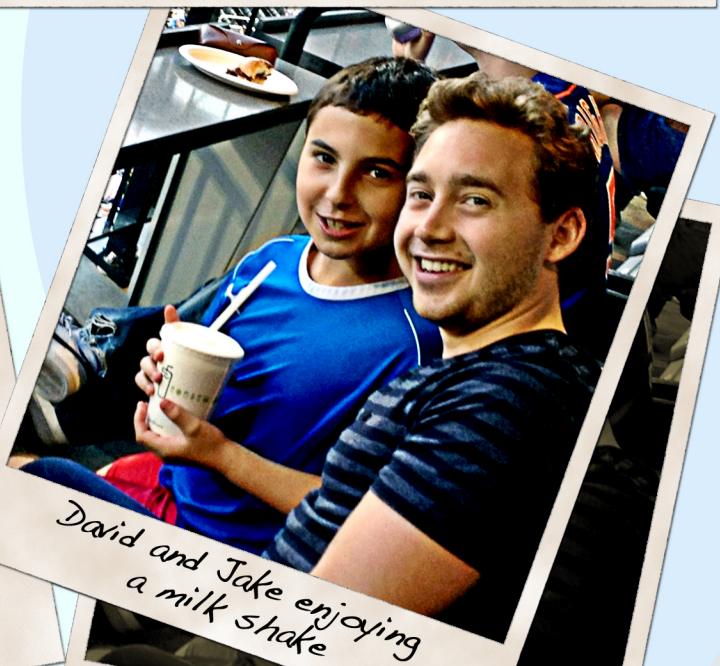
Joseph & Gerry at the ball game



David asks, "Why didn't I bring my mitt today?"



Joseph & Mia horsing around waiting for the next pitch



David and Jake enjoying a milk shake

GERRY'S TRIVIA GAME

TEST YOUR KNOWLEDGE OF NEW YORK LAW

TRUE OR FALSE?

1. Discovery demands from the defense law firm are designed to find out what you want to eat for dinner the night before your trial.
2. If I want to get a ruling from the court during a deposition, the defense attorneys are required to participate in the call to the court.
3. It is a requirement in New York that lawyers be civil to each other during the course of a lawsuit.
4. It is not uncommon for plaintiff's attorney to be friendly with a defense attorney after trial has concluded.
5. When the judge yells "Order in the court!" What he's really asking for is your lunch order.
6. No lawyer in New York can ever guarantee a particular result.
7. Just because you have taken a medication that has been pulled off the market does not necessarily mean you have suffered injury.
8. In a medical malpractice case in New York, the wrongdoing and your injuries must be connected and confirmed by an expert who has reviewed all of your records.
9. Causation is the link between carelessness and the injuries you suffered.
10. In a medical malpractice case in New York, we need not show with 100% certainty that the doctor caused you harm. We only need show that we are more likely right than wrong.

(ANSWERS ON THE BACK PAGE)

NEW WORD SEARCH

FIND ALL WORDS AND WIN A GIFT CARD!

Y S U F R R Y I Y E X J Y E T
F T U Q L Z F B B S J T T S U
I G Z F S C U F P U I A O R V
T Y W P F T E N W L K B B P I
S P Y P N E K R I C J R H V O
E C S S D X R B U E T Y H A L
T Z E Y Z U A I C T S M M U A
S L S J N I W T N I C U L Q T
Z T S O L O I Y C G A A B B I
U I E N A O M I Z R H D R L O
F N N T N T A I T W R J Y F N
H M T S V N H S T I U S W A L
T R I A L Z C A U S A T I O N
E D W D N M Q V F K E A H E R
E L Y R E V O C S I D T Z O V

CAUSATION	OATH	TESTIMONY
DISCOVERY	OBJECTIONS	TRAUMA
FRACTURE	PHYSICIAN	TRIAL
LAWSUITS	SUFFERING	VIOLATION
LIABILITY	TESTIFY	WITNESSES

WORD SEARCH CHALLENGE : Find all 15 words correctly, and fax it in with your name & address filled out for a \$10 gift card to Dunkin Donuts. ONLY 15 GIFT CARDS AVAILABLE..so fax it in quickly!

NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____

ZIP: _____

EMAIL: _____

PHONE: _____

FAX TO: 516-487-8472

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**SOLO
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FACULTY

Attorney Gerry Oginski



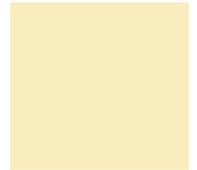
Need answers to your legal questions? Pick up the phone and call me. It's that simple.

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**Call me right now with any legal questions
about injuries from any accident or medical
care. I promise to give you a straightforward
and honest answer. That's my guarantee.**

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-----Answers to trivia -----

1. False, 2. False, 3. True, 4. True, 5. False, 6. True, 7. True, 8. True., 9. True, 10. True