

NEW YORK MEDICAL MALPRACTICE LAWYER GERRY OGINSKI PRESENTS

SCHOOL'S
ALMOST OUT!

NEW YORK INJURY TIMES

JUNE 2014



And here's the pitch...David striking out another batter.

An osprey catches dinner and shows off his catch on the way home



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SHE SWORE SHE DID THE SURGERY RIGHT; YET, SHE COULDN'T EXPLAIN WHY THE PATIENT WAS BLIND

NEW YORK INJURY TIMES - SHE SWORE SHE DID THE SURGERY RIGHT

The patient suffered a fractured orbit of his eye. The muscle that controlled his eye movement was stuck in the fracture fragments. The eye doctor told the patient that she'd take him to the operating room and release the stuck muscle. She'd then use a titanium implant to connect and hold the broken bone pieces together.

The patient trusted her. She seemed confident and experienced.

Little did he know that the eye doctor had only done this procedure less than a handful of times.

A day after the surgery, the ophthalmologist takes the eye patch off the patient and asks him "What do you see?"

"Nothing," came the reply. "It's totally black."

The eye doctor does some additional tests and gets an emergency MRI. She tells the patient "I have to take you back into surgery immediately. There's a problem and I'm going to fix it."

She never told the patient what she saw and why he needed emergency surgery.

The next day, after the emergency surgery, the doctor again removes the eye patch. "What do you see?"

"Nothing," the patient replies. "It's still black."

That's when the doctor realized the true extent of the problem. But even then, didn't tell the patient exactly why he was now permanently blind in one eye. She told him this was a recognized risk of the surgery and unfortunately, this was permanent.

Turns out, the doctor wasn't being entirely truthful with the patient.

Turns out the doctor violated the basic standards of medical care.

Turns out that as a direct result of the doctor violating the basic standards of medical care did this patient suffer blindness in his eye.

I learned, while questioning the eye doctor during her pre-trial testimony that when she put the implant in to hold the broken bones together, she cut the optic nerve. That's the nerve that controls the patient's sight.

The doctor never recognized this.

When she got the emergency MRI, she realized that the optic nerve was cut, but didn't tell the patient. Then she went back in and attempted to move the titanium implant to get it away from the optic nerve. She thought that by doing that, it would reduce the pressure build-up she thought was responsible for the lack of vision. Wrong.

The nerve was totally severed. By the time she actually realized the extent of the damage, there was no way to repair it.

Also, during pre-trial testimony, the doctor revealed she had done this procedure only a handful of times. She also agreed that a specialist in the field of neuro-ophthalmology would have more experience handling this type of problem.

The sad reality is that this injury was totally preventable. This injury was not a recognized complication from the procedure. It only occurred because of this doctor's inexperience and a violation from the standards of good and acceptable medical care.



*Joseph, Mia & David at Matzaluna
Restaurant in Sanibel, Florida*

FANTASTIC COMMENTS FROM A FACEBOOK VIEWER

MEDIATOR TICKS ME OFF- ALMOST RUINS NEGOTIATION IN NY MEDICAL MALPRACTICE

Justin Pandelo Great story Gerry! That was an order taker, not a negotiator. Nice to see a pro with conviction whom confidently embraces the situation for their clients best interests. The first sign of concession is blood in the water. Way to maintain! Enjoy Sanibel!

Gerry Oginski Thanks Justin. I know some attorneys would simply have gone along with her strategy which was just wrong, wrong and even more wrong.

Justin Pandelo You and your videos have been a great gift for me personally Gerry, I've had an issue with many attorneys I've encountered. They lacked conviction and only cared about compensation. You have restored my hope in attorneys over the past year or so. I see your passion for the law. I'm beginning to understand it myself now. Thanks for the great content, the inspiration, and the passion.

Your videos are a virtual mentorship program for guys

like me going it pro se. When I do hire counsel for upcoming cases, you have provided me an invaluable education with which to confer intelligently on legal strategy and applications of the law. From the bottom of my heart, thanks Gerry. You'll never know what a game changer you have been for me here in NJ & FL courts. Enjoy the beach my man!

Gerry Oginski Thanks for your really kind words Justin. You've made my day!

Justin Pandelo Thanks Gerry, its no BS either. In studying your videos I developed my oral arguments. I have been complimented on record by judges several times being told my briefs and arguments were far better than most pro se's they've encountered. My internal dialogue was: *Whoa!!!, If he only knew I modeled my arguments off of marathon YouTube watching sessions and channeling Gerry Oginski, he'd laugh me out of court* Glad it made your day. Gotta give the props where they are due though. lol

NEW YORK INJURY TIMES - FANTASTIC COMMENTS



Mia, Joseph & Gerry when asked "How much longer on this Segway Tour?"

SHE WAS SO YOUNG... A FAILURE TO DIAGNOSE BREAST CANCER STORY

NEW YORK INJURY TIMES - A FAILURE TO DIAGNOSE

She was so young. She noticed a lump in her breast. She went to her gynecologist. She told her gynecologist what she felt.

Her gynecologist felt the breast lump. Her gynecologist ordered a sonogram. Her gynecologist ordered a mammogram. Her gynecologist ordered a breast surgery evaluation.

The patient went for a sonogram. The patient was told the sonogram was normal. The patient was told she was too young to have breast cancer. The patient was told she didn't need a mammogram.

So...

The patient trusted the radiology facility. The patient listened to the nurse at the radiology facility. The patient didn't have a mammogram.

She tried to set up a breast surgery appointment. She had a problem getting her insurance to approve the appointment. She finally learned that the breast surgeon wouldn't take her insurance.

In the meantime, her gynecologist's nurse practitioner told her the sono was normal. In the meantime, nobody from her gynecologist ever followed up with her.

Her gynecologist was no longer at the office. Her gynecologist's partner was a man. She couldn't bear to be seen by a man.

Many months later, she went to another gynecologist. She was having a missed pregnancy known as a missed AB. She didn't think the breast lump was anything. She had been told by her radiology facility that everything was normal. She had been told by her gynecologist's office that the sonogram was normal.

Months later, during a routine gyn exam, her new gynecologist felt a breast lump. She sent the patient for an immediate sonogram. She sent the patient for an immediate breast surgery evaluation. She was sent for an immediate biopsy.

She was diagnosed with Stage IIIa breast cancer. She needed chemotherapy. She couldn't harvest her eggs since she needed treatment immediately. She needed radiation therapy. She elected to have a bilateral mastectomy. She was only 25 years old.

She's in remission now. She's three years out from her diagnosis and treatment. She still has risk factors for recurrent breast cancer.

Her case was about to be scheduled for trial.

The defense started to negotiate. The defense refused to acknowledge, prior to trial, that they were at fault.

The defense offered her \$750,000 to settle. We said "No."

The defense offered her \$1,000,000 to settle. We said "No."

The defense offered her \$1,250,000 to settle. We said "No."

The defense offered her \$1,450,000 to settle. We said "No."

The defense offered her \$1,600,000 to settle. We said "Yes."



David posing in the pool



David being superman as he jumps in head first into the pool

IT WAS ONLY A FINGER...

One finger. His index finger. On his non-dominant hand.

What did he do with his finger?

He typed. He was a computer programmer. He was a bicyclist.

He couldn't use his finger. For 7 weeks. He couldn't use his left hand. For 7 weeks.

His finger was casted and splinted. His hand was wrapped. His finger was immobilized.

His finger was fractured. His finger was broken. His finger was busted.

He couldn't type. He couldn't button his shirt. He couldn't make his breakfast.

He was in pain. Throbbing pain. Unrelenting pain. Pain kept him up at night.

He asked "Why me?" He wondered "What did I do to deserve this?" He thought "How could a finger disable me?"

Turns out, he was out for a bike ride. He was riding in Queens. He was observing traffic laws.

He was passing through a T intersection. It was a beautiful warm Spring day. Sunny day.

There was a stop sign at the intersection. The stop sign was only for cars coming into the main road. He was on the main road.

The car was about to enter the main road. The car had a legal obligation to stop at the stop sign. The car was required to stop.

The driver ignored the stop sign. The driver was distracted. The driver never stopped.

The driver never looked left. The driver never looked right. The driver just drove into the intersection and turned left.

Directly into my client.

A witness saw it. The witness yelled. The witness yelled at the driver. The witness called the driver names, angrily.

My client was knocked down. To the ground. His bike was destroyed. His finger was shattered.

But hey...it's only a finger...



*Joseph & David at sunset at Blind Pass
(where my wife loves to pick sea shells)*



*Mia getting ready to hit a top speed
of 12 mph on the Segway*

PHOTO GALLERY

David pitching during little league game



NEW YORK INJURY TIMES - PHOTO GALLERY



David having fun on the slide



Joseph going for a run



Sanibel seashells



Seashell alligator



Gerry shooting video

GERRY'S TRIVIA GAME

TEST YOUR KNOWLEDGE OF NEW YORK LAW

TRUE OR FALSE?

1. "Objection, you're badgering the witness," refers to comparing the witness to a wild animal.
2. "Objection, assumes facts not in evidence," means that the attorney is making up facts out of thin air.
3. "Objection sustained!" Means that the witness does not have to answer the question.
4. "Objection overruled," means that the witness must answer the question.
5. "Objection, improper question" means that the lawyer simply does not like the way the attorney asked the question.
6. "Objection, that's cumulative!" Means that the lawyer does not want the witness doing math in his head, and would instead prefer that he had a calculator.
7. Objection, hearsay!" Means that I did not hear what the witness said. Please ask the witness to repeat it.
8. When cross-examining a medical expert in a medical malpractice trial I always want to ask an open-ended question such as "tell me the reason why doctor..."
9. Many attorneys will walk from one courtroom to the next while in court to see what other attorneys are doing wrong and right.
10. Lawyers do not need to take continuing legal education classes to keep them updated on the law.

NEW WORD SEARCH

FIND ALL WORDS AND WIN A GIFT CARD!

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

WORDS

ARGUMENT	MISDIAGNOSIS	PRECEDENT
CARELESS	NEGLIGENT	SETTLEMENT
EYEWITNESS	NEGOTIATE	SUSTAINED
HOSPITAL	OBJECTION	VERDICT
JUDGE	OVERRULED	WITNESS

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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Have legal questions? Simple.
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Attorney Gerry Oginski

Mail to:



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JUNE 2014

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. 516-487-8207

Give this newsletter to your best friend.

They'll thank you for it and so will I.

-----Answers to Trivia-----

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