

## Colossus vs. the Human Race (and What to Do About It), Part One

Shawn Steel, JD

We first got wind of this strange software program, "Colossus," when the National Association of Chiropractic Attorneys (NACA) heard a report of a class-action lawsuit in Louisiana against Allstate Insurance. This software determines the value of soft tissue damage in personal injury cases, but originally added a component asking the racial profile of the claimant. By comparing black victims to white victims, Colossus determined that insurance carriers should pay less money to black victims based on jury verdicts in Louisiana. Later, that item was dropped from Colossus. This plus other outrages created by Colossus are still a national controversy.

Most auto insurance carriers in California use Colossus, or a variant thereof. It takes the power away from human adjusters to "adjust" PI values. Instead, Colossus creates its own matrix for determining the values. Carriers such as Allstate and Farmers are the most extreme users. Most of their experienced adjusters have left their jobs, dispirited and angry. They no longer serve as evaluators. Instead, adjusters merely input data so Colossus can instruct them on what offers can be made.

Colossus is arbitrary and unreasonable. It is common for carriers to offer settlements that only pay for the medical bills, or the medical bills plus 50 percent. The patient's options are to cave in and settle or take the case to a jury. The carriers are delighted with either choice. Most attorneys cannot "afford" to try smallish PI soft tissue claims. Those few who do litigate generally get better values, but work twice as hard.

A good deal has been written about Colossus on the Internet. The Colossus software depends on more than 7,000 units of information relating to claims. The essentials Colossus utilizes are:

- the patient's medical history, age and prior claims;
- the attorney's litigation history and experience records;
- the doctor's reputation, courtroom experience, practice volume, and average treatment duration;
- the average jury verdicts in the area of the accident;
- the angle of impact, amount of car damage, and degree of impact for bio-mechanical analysis;
- the medical bills and average daily fees; and
- the diagnostic codes that are most commonly used.

Colossus will respond to some factors that "add value" to its evaluation. Those factors include:

- multiple, provable diagnoses outside of neck and back injuries;
- specific levels of the cervical spine (or other locations), rather than generic regions, e.g. "pain to cervical area";
- specific details of headaches (frequency, duration and location), rather than simplistic information, e.g. "patient suffers headache." (What does that mean?);

- pain scales that document degrees of complaints from injury onset until discharge;
- documented residual issues and unresolved pain upon release (very important);
- details on changes and hindrances in the activities of daily living (dates, specific activities, frequency and duration); and
- potential diagnoses (deserving of special attention) that include, but are not limited to, concussion or airbag, which may lead to a finding of a traumatic head injury.

Clearly, the more detail you have about your patient, the more the Colossus program has to respond. The old model using a generic notation of merely "neck and back pain" is a guarantee of not getting your fees paid.

*Shawn Steel, Esq.*  
*Palos Verdes, California*

FEBRUARY 2004