Colossus:

What Every Trial Lawyer Needs to Know

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"not trauma related?" Moreover, why is it that "if injury to an asymptomatic joint is followed by symptoms of osteoarthritis, this is just as actionable as if the trauma caused the osteoarthritis," but the same is not true of previously asymptomatic rheumatoid arthritis?

Unlike Osteorthritis, the hallmark of Rheumatoid Arthritis is that it is an *erosive* (rather than additive) form of arthritis. In Colossus, it is only considered to affect the hands and feet, which is incorrect medically. Nevertheless, if the client does have Rheumatoid Arthiritis, or an aggravation of "RA" after a collision, Colossus does make the provision for severity points, and it should be noted in the demand letter along with the other factors in the case.

Anklyosing Spondylitis ("AS")

Ankylosing Spondylitis is an inflammatory disorder of the spine and the sacroiliac joints of the pelvis. It fuses together the spine, leading to a condition referred to by doctors as "bamboo spine" as x-rays often reveal a long connected shaft of vertebral bones.

Clearly, with a spine this rigid, injuries to the spine carry a new significance. Apparently the Colossus Medical Team did acknowledge, reluctantly, that trauma may trigger, accelerate, or aggravate Ankylosing Spondylitis, and severity points are provided to those who develop it secondary to trauma, or who sustain an aggravation of the pre-existing condition.

Spondylolisthesis

This is a condition that every lawyer should come to better understand. The reason why is that it is critical to better explaining to a jury why a "soft tissue injury" is not a minor injury.

I would disagree that this condition is properly placed in the category of arthritis, or that in most cases it is pre-existing. I would also disagree with the definition provided by the Colossus Medical Team to adjustors and the programmers in this case.

A spondylolisthesis is the shift of a vertebral bone either forward or backward on the vertebra below it. If the top vertebra shifts forward, it is more specifically called an "anterolisthesis." If the top vertebra shifts backward, it is more specifically called a "retrolisthesis." (As a side note, there can also be a "laterolisthesis" where the bones abnormally move to the side, when the body is side bent, most often seen at the C1 vertebra.) Take for example the abnormal forward "sliding" or "translation" of the C5 vertebra on C6 when the head is flexed toward the chest. This is considered a spondylolisthesis, or more specifically an "anterolisthesis" of C5. The reason this happens is that in a traumatic injury to the ligaments of the spine (most often the neck) a loss of joint integrity may occur. If this ligament damage is sufficient, it will allow the vertebra to move abnormally on the other bone as it goes through its normal motions. Most frequently, this abnormal movement is seen when a client receives "Flexion/Extension" radiographs of the neck. The more recent video fluoroscopy / cineradiography / Digital Motion X-ray ("DMX") is excellent at demonstrating these injuries in video.

The problem with a spondylolisthesis, is that ligament injuries never fully heal, leaving a permanent instability in the spine. Each level of spondylolisthesis carries with it an automatic impairment rating under the AMA Guides to the Evaluation of Permanent Impairment. One single level will be worth 5-7% which can equal around $20,000 dependent upon the case, and this is probably one of the most overlooked injuries in Personal Injury law.

The larger the overhang of one vertebra on the next, the more unstable the joint is. If the instability is too great, stabilization surgery is required. One should always consider this problem if the client complains of getting dizzy when tilting his or her head backward, blacking out when tipping their head back, or hearing a "clunking" sound in their neck when moving it.

The instability caused by ligament damage makes the client more susceptible to serious future injury. But, more likely, the increased motion of the vertebra leads to accelerated osteoarthritis at the joint, due to the effect of abnormal joint motion. This unstable joint is invariably where doctors will first see the onset of osteoarthritis after a collision. As mentioned above, however, Colossus does not allow for a claim of osteoarthritis after a ligament injury in the spine.

The Colossus Medical Team incorrectly defined a spondylolisthesis as a "forward shift of the spine." They go on to state that the condition is most often associated with a birth defect that does occasionally allow for the forward slippage of the L4 or L5 vertebra in the low back. In fact, they fail to consider the substantially higher incidence of post traumatic spondylolistheses in the cervical spine after motor vehicle collisions, and therefore conclude "spondylolisthesis is most likely to be associated with some pre-exising defect."

The treatment protocol expected by Colossus includes:

1. Improved Posture;
2. Avoidance of Activities;
3. Analgesics;
4. Physiotherapy;
5. Bed Rest;
6. Spinal Fusion Surgery;
7. Laminecomy[19]