

“The Colossus of Roads”

Computer Code, Not Humans, Calculates Your Pain and Suffering

Colossus is a big piece of computer software that could have a huge impact on your life. Many insurance companies use the software to place a value on a person's quality of life and coldly calculate the settlement values of injury claims.

Insurers maintain that Colossus is but a useful tool because its logic takes into consideration many factors in ciphering settlement values, and that the settlement values Colossus computes simply provide a range for adjusters to work in.

But, consumer lawsuits and industry whistle-blowers claim that insurers rely exclusively on Colossus, using its conclusions as an excuse to offer low-ball settlements. Attorneys working on behalf of injured insurance claimants say Colossus is only as viable as the data fed to it, and the insured claimant doesn't know what data has been given to Colossus. Furthermore, the claimants and their advocates argue, Colossus does not consider interference with normal life activities in its calculations. Nor does it provide a range of settlement values, they say. Colossus cranks out a discreet number that insurance adjusters must offer or risk unfavorable management reviews.

Colossus is a big secret of the insurance companies that use it, and they likely will not tell you if they have licensed the software.

"Colossus is more than unfair to people," says attorney Steven Wittmer. "People believe it is Big Brother-like that a computer is calculating what their lives are worth. But Colossus is being “tuned” by insurance companies so that it spits out low-ball offers that are even lower than the low-ball offers we usually receive."

Several lawsuits filed throughout the United States accusing insurance companies of bad faith have revealed the use of Colossus. A class-action lawsuit has been certified in New Mexico against Allstate over its use of Colossus.

Widespread Use

Computer Sciences Corp., the company that produces Colossus, says it is used by more than 50 percent of the nation's claim adjusters and by more than 300 insurance companies. Of the top 20 U.S. property and casualty insurers, 13 are using Colossus.

Most claims insurance adjusters use computer software to appraise any insurance claim that you make. Computer Sciences says that Colossus can evaluate more than 600 types of injuries based on 10,000 different rules.

But, claimants ask: How can a computer quantify my emotional distress? How does it quantify the loss of enjoyment of life because I can no longer take quiet walks with my spouse? The pain and despair I endure because working hurts and interferes with healing? How can a computer quantify my suffering and reduce it to dollars and cents if it does not consider all the aspects of my condition, not just the damage to my vehicle and my expected treatment costs. Colossus gives short shrift to actual pain and suffering.

In the U.S. legal system, a jury is charged with determining the value of a claim, but juries consider many of the factors that Colossus ignores. Juries determine the credibility of claimants, and can distinguish in claimants the attributes valued in society, such as honesty, perseverance, humility, or patience. Colossus cannot evaluate those positive traits, so a claimant whose life includes positive elements that are likely to draw a larger jury verdict will not have those positive elements considered by Colossus. For example, a college baseball pitcher headed to Major League Baseball should receive a higher payment for a career-ending injury than a budding schoolteacher.

Adjusters Treat Insured Differently

Insurance companies do not usually differentiate between first- and third-party claims. First-party relationships are between people and their insurer. Third-party relationships are between people and the insurance company for the people who are at fault.

Here's how insurance adjustment generally works:

An adjuster receives an assignment, looks up the policy and investigates what type of

coverage is available to the injured person. If it is a first-party claim, the injured person is the one paying the premium and coverage usually comes in the form of either Personal Injury Protection or Underinsured Motorist Protection.

In a third-party claim, the adjuster checks with the person insured by his company to find out what happened. If the insured person is at fault, the adjuster can begin to assess damages.

Special, or “actual,” damages are immediately measurable costs, such as for medical bills or loss of income. General damages are for intangible losses, called pain and suffering, emotional distress and lost capacity to enjoy life. Colossus generates values for general damages, placing a monetary value on a person's quality of life.

Bottom Line Or Settlement Range?

Insurers deny that their adjusters must use the settlement values that Colossus spits out. Colossus is an evaluation tool, nothing more, nothing less, they say. It just gives a starting point, they say, from which the adjuster can move up if the facts of the case merit it.

But insurance industry whistle-blowers Robert Dietz and Christy Klein, former insurance claims adjusters, told a West Coast newspaper that they and dozens of other senior adjusters were sent to Computer Sciences Corp.'s California offices for a "tuning session." The adjusters were ordered to create a benchmark for Colossus to follow, based on hundreds of settled claims and representative settlements. Before Dietz left, he said a company consultant told him that the averages would then be lowered 20 percent.

Deitz's former employer denied in previous lawsuits that they modified Colossus to generate lower settlement ranges, but internal reports show that settlement costs did indeed decline about 20 percent.

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