



SARASOTA  
**LITIGATOR**  
Journal

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**“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

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**CASE REVIEW**



**Driving Under the Influence is Costly**

**Insurance Company Rejects Initial Settlement Offer**

On November 2, 2004 Harry Cumbee was riding home on his motorcycle in Sarasota County. Harry was stopped at a red light when he was rear-ended by another vehicle. The driver of that vehicle was a Sarasota County Sheriff Dispatch Officer. Police were called to the scene and during their investigation they noticed that the Defendant appeared to be driving while intoxicated. Field sobriety tests were conducted and ultimately the Defendant was arrested for driving under the influence.

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## DUI Costly

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Fortunately, Mr. Cumbee was not seriously injured in the accident, although he did have to undergo one arthroscopic surgical procedure to correct some nerve damage to his arm.

At the time of the accident, the Defendant maintained \$10,000 of liability insurance with American International Group, Inc. (AIG). AIG was provided an offer to resolve the Cumbee family claims against their insured for the payment of their \$10,000 policy limit. Unfortunately, the insurance company refused our clients' offer and the Cumbees were forced to file a lawsuit against the Defendant. Our firm was able to recover \$70,000 from AIG in exchange for a settlement of all claims against their insured. All settlement monies were paid by AIG on behalf of their insured.

## Colossus

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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.

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**"People believe it is Big Brother-like that a computer is calculating what their lives are worth."**

**— Attorney Steven Wittmer**

## Now Accepting Case Referrals

The law firm of Steven T. Wittmer is accepting referrals of cases in the areas of personal injury, wrongful death, insurance disputes, workers compensation, and trust and estate litigation. We promise to work hard to earn and preserve your trust in referring cases to our firm, providing prompt, diligent and aggressive representation.

### Here are 4 good reasons why you can be confident when referring cases to our firm:

1. We are a local firm. Our practice and our families are part of the fabric of the Sarasota community. Locally referred clients will receive the most attentive, personalized service.
2. Our firm understands insurance coverage issues. We can make sure all available insurance coverages are located.
3. We are passionate about obtaining the maximum recovery for our clients, and will try the case to a jury if necessary to obtain the best results.
4. Recoveries in excess of available insurance coverage generate greater recoveries for our clients and larger referral fees to referring attorneys.

# Colossus

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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 and quality of life issues.

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 SESSION OF LEGISLATURE TO TACKLE PROPERTY INSURANCE CRISIS

In late November, Governor-elect Charlie Crist, Senate President Ken Pruitt and House Speaker Marco Rubio announced that they will call a special session of the Florida Legislature starting Jan. 16, to begin an effort to restructure Florida's property insurance market and provide relief to Florida residents and businesses.

The Senate, House, and governor-elect will work with Gov. Jeb Bush and Chief Financial Officer-elect Alex Sink to develop a comprehensive reform plan with the goal of increasing competition, lowering rates, providing incentives for preparedness and creating greater transparency for consumers.

"The lack of available and affordable property insurance is the biggest threat to our economy - we cannot wait until the 2007 Legislative Session to find the solutions that our families and businesses need," said Gov. Bush.

### Gov. Bush's Report and Proposed Legislation:

Gov. Bush's Property & Casualty Insurance Reform Committee has released its final report and proposed legislation. Below are Web links to the final report and the legislation.

<http://www.myfloridainsurancereform.com/finalrpt.htm>

<http://www.myfloridainsurancereform.com/proposedleg.htm>

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.



*"There is no time  
more fitting to say  
Thank You and to  
wish you a Happy  
Holiday Season  
and a New Year of health,  
happiness and prosperity"*

The hiring of an attorney is an important decision that should not be based solely on advertisements.  
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