

Colossus: When your opponent is a computer algorithm

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It is common knowledge that insurance companies increasingly are relying on such claims evaluation software as Colossus, Claims Outcome Advisor, Injury Claims Evaluations, and Injury IQ to evaluate personal injury claims.

Colossus has historically been the most widely used of such programs. According to the DXC Technology¹ website, “Colossus® is currently the insurance industry’s leading expert system for assisting adjusters in the evaluation of bodily injury claims.”²

The DXC Technology website provided this description of Colossus:

Through a series of interactive questions, Colossus guides your adjusters through an objective evaluation of medical treatment options, degree of pain and suffering, degree of permanent impairment to the claimant’s body, and the impact of the injury on the claimant’s lifestyle. At the conclusion of a Colossus consultation, a summary of the claim is provided, including a recommended settlement range.”³

Since the settlement of a class action lawsuit filed in Arkansas state court in 2005 titled *Hensley v. Computer Sciences Corporation, et. al.*, Colossus is no longer explicitly advertised as a program to help insurance companies reduce payouts. Here are excerpts from recent promotional materials:

- The DXC Technology website currently claims, “Colossus ensures consistency in how bodily injury claims are evaluated across your entire claims organization, thereby reducing payout variance.”⁴



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- A promotional flyer for Colossus currently available on the Computer Services Corporation (CSC) website⁵ claims:

“[Colossus] consolidates entry for whiplash claims to require only one screen of medical data, allowing for rapid recommendation of whiplash claims.”

“CSC has an exclusive alliance with the American Medical Association. The AMA periodically reviews Colossus and the Colossus reference system to ensure accuracy and up-to-date medical information.”

- As of May 8, 2016, a different promotional flyer, “Colossus Software: Myths and Facts,”⁶ was available on CSC’s website. It said:

“Most insurance companies will show the claims recommendation from Colossus to a consumer, if requested.”

“None of CSC’s customers have used Colossus to establish cash reserves.”

“The court-approved settlement in the *Hensley* case did not require CSC to pay any damages to the class. As a result of the settlement, CSC now provides additional information about the Colossus software through a public website (www.colossuseducation.com).”⁷

With regard to accusations that Colossus saves insurance companies money at the expense of consumers: “CSC’s marketing materials and insurer interactions today consistently

tout to insurers the ability of the Colossus product to establish consistent recommended settlement ranges. To the extent that CSC's past marketing materials from a decade ago or more suggested otherwise, they were wrong."

- In January 2014, a promotional document titled "P&C Organization Improves Bodily Injury Evaluation and Settlement Consistency"⁸ available on the CSC website said:

The vice president of claims for "one of the United States' oldest property and casualty insurers" is quoted as saying "[w]here in the past about 20 percent of claims were being settled above the recommended high in Colossus, now only about 10 percent exceed that value."

"Not only can claim handlers compare the values of similar closed claims but they can analyze the details and settlement amounts for all cases filed by each plaintiff's attorney."

For copies of the promotional flyers discussed, contact me at kristischubertesq@gmail.com.

How Colossus works

The program prompts the adjuster to input specific information, or "factors," into the software. According to Dr. Aaron DeShaw, Esq., individual factors in a case are assigned "severity points," and the total number of severity points determines the final value of the case as calculated by Colossus.⁹

The Colossus software does not assign a dollar value to the severity points.¹⁰ Instead, the insurance company using the software determines the value of each severity point.¹¹ As an example, Farmers Insurance assigned a value of 67 cents per severity point for the cases with the lowest amount of total severity points, according to DeShaw.¹²

Why understanding Colossus is important

When we negotiate with adjusters using claims evaluation software, we are negotiating with an algorithm. In such cases, it is important to keep in mind that while a human can look at the big picture and take soft factors into account when coming to a decision, by its nature, an algorithm can only account for the information that it is programmed to consider. In addition, that information must be presented in the format the algorithm can recognize.

If we don't learn to present all the relevant information in a format that the algorithm recognizes, we risk having our client's claim undervalued. Being undervalued by Colossus can seriously diminish our clients' ability to attain a fair resolution of his or her claim.

Some insurance companies only give adjusters the authority to settle a claim at or below the value suggested by Colossus.¹³ Even in companies where the adjuster is not specifically limited to the value suggested by Colossus, Colossus' suggestions will be a powerful anchoring point that affects the adjuster's assessment of the case.

How Colossus can undervalue claims; what to do about it

1. The client should accurately describe every accident-related symptom to the provider.

Colossus awards each separate diagnosis its own severity points, and for certain diagnosis, it awards additional severity points for each symptom/complaint the client experiences.¹⁴ Colossus only recognizes diagnoses and symptoms that are specifically listed by the treatment provider in the medical records.¹⁵

If the treatment provider doesn't write it down, it doesn't matter whether the client writes it down on an intake form or whether the doctor has personally told the client that a particular diagnosis is appropriate. This means we need to inform our client that he or she must clearly identify every single accident-related symptom to ensure that each one is accurately represented in the written medical records.

Even if the condition or symptom cannot be treated (*e.g.*, a contusion), if it is accident related, the client should mention it to the provider and the provider should note it in the records.

2. The client should discuss the status of each accident-related symptom at every visit.

For many symptoms, Colossus awards severity points based on the duration of the symptoms.¹⁶ So the client should be instructed to specifically and accurately inform the treatment provider on every visit of the updated status of each accident-related symptom of which he or she previously complained.

Even if the only update on a symptom is that the client no longer suffers from it, the client must provide this information to the treatment provider. If your client doesn't feel confident that he or she will remember to mention every symptom, perhaps you can suggest the client make a list to take to the provider's office.

3. You must specifically request compensation for "duties under duress" in your demand letter.

According to DeShaw, Colossus awards severity points for what it calls "duties under duress."¹⁷ These are activities that the client continues to perform, but suffers pain while doing so. Generally, these duties include work duties, indoor and outdoor household activities, and educational activities if the client is a student.

To recover for these, not only must the doctor note in his records the specific activity being performed with pain, but also the attorney must specifically request that the client be compensated for performing that duty with pain.¹⁸



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4. When appropriate, your client should request an impairment rating from the treating physician.

Colossus awards severity points for “loss of enjoyment of life” only when a treatment provider performed a permanent impairment rating in accordance with the 5th edition of the *AMA Guides* and determined that the client suffers from a permanent impairment of 2 percent or more.¹⁹

While not all doctors routinely perform such an evaluation, most doctors will perform such an evaluation if asked to do so by the patient.

5. You must specifically request compensation for “loss of enjoyment of life” in your demand letter.

As with duties under duress, the lawyer must specifically request compensation for loss of enjoyment of life for Colossus to assign any severity points.²⁰ Loss of enjoyment of life, as recognized by Colossus, includes the work, educational, and household activities, as well as hobbies, social activities, and sports.

According to Dr. DeShaw, in one case where treatment involved only \$2,650 in chiropractic bills, Colossus valued the loss of enjoyment of the client’s hobbies as being worth between \$11,000 and \$17,800.²¹

Endnotes

1. DXC Technology is the current owner of Colossus. DXC Technology arose out of the April 2017 merger between Colossus’ prior owner, Computer Sciences Corporation, and the Enterprise Services business of Hewlett Packard Enterprise.
2. <http://www.dxc.technology/insurance/offerings/11097/57637-colossus>.
3. *Id.*
4. *Id.*
5. http://assets1.csc.com:80/p_and_c_general_insurance/downloads/Colossus.pdf.
6. https://assets1.csc.com/p_and_c_general_insurance/downloads/Colossus_Myths_Facts.pdf.
7. On the date I wrote this article, said website no longer appeared active.
8. http://assets1.csc.com/p_and_c_general_insurance/downloads/Org_Improves_Bodily_Injury_Eval_CS.pdf.
9. DeShaw, Dr. Aaron. *Colossus: Understanding Auto Insurance Claims*, Trial Guides, LLC, 2011.
10. *Id.*
11. *Id.*
12. *Id.*
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