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# Increasing Claim Value in Auto Cases

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AUTO INSURERS USE A VARIETY OF SOFTWARE PROGRAMS to limit claim value. In addition to medical bill review software and vehicle damage software programs, most insurers use software to evaluate bodily injury claim value. The predominant software used by insurers is the Colossus program, which determines values for up to 60 percent of all auto claims in the United States. An additional 10 percent are analyzed by competing programs such as Claims Outcome Advisor, ClaimIQ, and Exposure Manager.

## DETERMINING VALUES

Colossus determines values based on approximately 720 diagnoses and 12,500 “rules” or “factors.” These diagnoses and factors determine the value of the settlement offer. It is important that, in order to obtain the highest offer on a case, evidence of all of your client’s injuries is in the medical records and that you make the appropriate claims in your demand letter.

## THE TOP FIVE FACTORS

### Injuries

In Colossus, diagnoses are referred to as “injuries.” Injuries in Colossus are the largest value driver in the system.

It is critical to your client’s evaluation that their doctor diagnoses every condition present in the chart notes.

Failure to diagnose all conditions will result in an undervaluation of the case. Colossus is a system set up to open additional screens of factors when triggered by the adjustor’s answer. If certain diagnoses are not entered, it will prevent the adjustor from reaching screens containing factors that provide additional value. The value of each “severity point” attached to the factors increases in value as more severity points are added in a case.

### AMA Permanent Impairment Ratings

“Permanent impairment” is the second largest driver of value in these systems, only behind diagnoses.

Colossus only recognizes *The American Medical Association Guides to the Evaluation of Permanent Impairment*, 5th Edition (the AMA Guides), which is reproduced in its entirety in the Colossus system, and uses only ratings to the person as a whole. These are referred to as “Whole Person Impairment Ratings.” There are certain injuries that, in and of themselves, carry a permanency rating. For example, a compression fracture of the lumbar spine under some circumstances may not require aggressive or long-term treatment. However, this injury automatically carries a permanency rating under the AMA guidelines. Under a Colossus evaluation, the permanency rating greatly increases the value of the claim.

If you handle personal injury cases, you should familiarize yourself with the basic structure of the AMA Guides, and find a knowledgeable medical specialist to whom you can refer clients to for these evaluations.



Many injured people get a substantially lower offer than what they deserve due to a failure to obtain an AMA permanent impairment rating.

For the impairment rating to qualify as an impairment in Colossus, the doctor must include the tables and pages from the AMA Guides book from which the rating was taken.

## Prognosis

It is important that your client's treating doctors understand this important point. Prognosis should not be given for the patient as a whole. Prognosis should be given for each area injured. Please note that Colossus does not use the typical medical prognoses such as "Excellent," "Good," "Fair," "Guarded," and "Poor."

### PROGNOSIS CATEGORIES UNDER COLOSSUS

1. Resolution Undetermined
2. No Complaint / No Further Treatment Required
3. Complaint / No Further Treatment Required
4. Complaint / Further Treatment Required
5. Guarded

## Loss of Enjoyment of Life

"Loss of Enjoyment of Life" can only be considered if there is a permanent impairment greater than the threshold percentage set by the insurer (typically 3 percent). There is a three-part process that must occur in order to get Loss of Enjoyment of Life included in a client's claim:

1. The client must have lost enjoyment of life in one of the six prescribed types of activities.
2. The loss of enjoyment of life must be supported and documented in a physician's report or notes.
3. The client's lawyer must make a specific claim, or the insurer will not be consider it.

It is imperative that the treating physician interviews the patient and documents the expected areas of impact in the medical records that the claimant will have to deal with as a result of the permanent injury. There are six categories of Loss of Enjoyment of Life, and there are approximately 100 factors associated with a Loss of Enjoyment of Life claim. Each one has value. Forms for both physicians and lawyers are available, detailing the full extent of factors involved that will be provided value within Colossus.

The legal forms are on the *Colossus Legal Forms CD* at: [www.trialguides.com/media/colossus-lawyer-forms](http://www.trialguides.com/media/colossus-lawyer-forms)

## Duties Under Duress

"Duties Under Duress" equals "Pain while conducting an activity." It is the term that replaces the medical term "Disability" in Colossus.

If a client has pain during an activity, but does it anyway due to the necessity for the client to continue doing the activity, it must be noted in the doctor's chart notes and the narrative report. Again, there is a three-part process that must occur in order to get Duties Under Duress payment included in a client's settlement offer:

1. The client must have experienced pain during one of the four prescribed types of activities.
2. The pain with activity must be supported and documented in a physician's report or notes.
3. The client's lawyer must make a specific Duties Under Duress claim, or the insurer will not consider it.

## SUMMARY

If the any of these are not done, the client will not get credit in the Colossus analysis and the claim will be substantially undervalued.

There are over 100 factors involved in the Duties Under Duress claim, each of which has value. Again, the legal forms for Duties Under Duress are available on the *Colossus Legal Forms CD* at:

[www.trialguides.com/media/colossus-lawyer-forms](http://www.trialguides.com/media/colossus-lawyer-forms)

## Important Disclaimer

It is important to note that Colossus is a cost containment device used by the insurance industry to limit claims payments by forcing adjustors to conform to values that are below that of the company's most conservative adjustors. You cannot get full and fair claim value from a settlement offer generated by Colossus. It is imperative that you take cases to trial regularly in order to obtain full value for your clients when the settlement offer is not sufficient. Trial record is becoming more important in other claims software used by insurers and can result in substantially higher settlement values.