

COLOSSUS: WHAT WE KNOW TODAY

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INTRODUCTION

The title of this paper is rather unique because only Allstate Insurance Company and Continuum Company, Inc., truly know how Colossus is being used by adjusters at the present time. Confidentiality Orders and Continuum's/Allstate's steadfast refusal to produce training manuals and materials regarding Colossus has kept the full truth about how this artificial intelligence software is being used by Allstate in Allstate's claims adjustment. Nevertheless, from the sources which are available and from open discovery in a few cases against Allstate, Attorneys representing claimants against Allstate do have a general understanding, albeit dated, regarding Allstate's use of Colossus to lower the amount it pays on claims.

OVERVIEW OF THE CLAIMS HANDLING CHANGES AT ALLSTATE

From 1994 through 1997, Allstate Insurance Company underwent a significant change in the way it adjusted claims. Allstate conducted a thorough review and analysis of its claims practice procedures. As a result, Core Claim Practice Redesign (CCPR) was established as an agenda for Allstate to change its claims focus.

Traditionally, insurance companies accepted the premise that the average amount paid in indemnity dollars (actual dollars paid to the claimant on average) could not be ethically changed. Allstate challenged this notion and accepted a new premise. It decided that severities could be managed and devised a claims practice to do so. Thus, CCPR and CCPR II were developed by Allstate to control claims severity and focus on small to mid-size claims which Allstate believed provided the greatest opportunity to save money.

As part of this claims focus shift, Allstate Insurance Company developed several programs. It attempted to influence claimants to remain unrepresented by attorneys because Allstate's own studies revealed that it was cheaper for the company to negotiate directly with the claimant than when an attorney became involved. It developed a specialized handling of relatively minor impact claims involving soft-tissue injuries.

Further, Allstate attempted to improve the objectivity and consistency in its evaluation process. The central theme of the change was that adjusters could begin to rely upon a software program known as "Colossus" which provided adjusters with a tool indicating what a particular case would be worth. Colossus, along with historical verdict information and a second review by an evaluation consultant, was the primary evaluation change made at Allstate in its claims process.

Eventually the changes were first implemented in various "Focus" areas and throughout the United States. The bottom line result was that the new evaluation process saved the company money, albeit at the cost of greater litigation and trials – especially of those cases involving relatively minor amounts in controversy. From the perspective of the consumer, Allstate would not pay fully for the value of a case and challenged the consumer to spend a significant percentage of any eventual recovery in litigation costs and otherwise unnecessary attorney's fees. Attorneys representing policyholders and claimants of Allstate have widely criticized Allstate for this tough negotiation position rather than simply paying the full amount owed, quickly and without the need for litigation.

AN OVERVIEW OF COLOSSUS

Colossus is the trade name for a software program which is licensed for use by The Continuum Company, Inc. The principal place of business for The Continuum Company is in Austin, Texas. Continuum is now a subsidiary of Computer Sciences Corporation.

Continuum is marketed as a software program which provides insurance companies help in assessing damages for bodily injury claims. It is essentially a relational data base where adjusters in-put information regarding a bodily injury claim and provides information regarding the evaluation of damages. Adjusters take information regarding a claim, including liability, medical information and other general damage information and in-put the same within parameters set by Colossus. The information is processed and a valuation range for the value of the case is returned to the adjuster.

The software requires the adjuster to enter general information regarding the adjuster's name, date of loss, regional/branch office, claimant's name, date of birth, gender, etc. It can provide responses based upon various economic regions to account for changes purely the result of geographical differences. Next, the adjuster must enter injury codes appropriate for the type of injuries sustained. Information regarding the length of treatment and resolution of each injury, including the type of treatment received, the medical provider providing the treatment and the dollar amount of the treatments are all recorded.

It is important to note that actual medical records and medical evidence, such as a doctor's report, is utilized to determine the information in-putted. The claimant's attorney's allegations are not sufficient as evidence. Accordingly, permanent impairment and work/household duty impairment must be supported by medical evidence.

Other information may also be calculated. Whether or not an attorney is involved, medical liens, aggravating circumstances contributing to the accident, and whether the claimant used available safety equipment may all be considered by the Colossus program. Obviously, wage and medical specials are considered in detail.

As a result, the Colossus makes recommendations regarding general damages, gross settlement ranges and final settlement ranges.

WHAT IT MEANS TO THE CLAIMANT WHEN THE ADJUSTER IS USING COLOSSUS

Interestingly, discovery in bad faith Allstate files has shown that Allstate has tracked the performance of adjusters with respect to their ability to negotiate settlements under the Colossus reports. For example, in the Seattle claims service area an evaluation was made in October, 1996 regarding the percentage of amounts paid in relation to Colossus activity. Since the Colossus evaluation can be reviewed by claims management and field adjusters know their managers can easily determine whether they are adjusting within the Colossus recommendations for settlement, there is a great deal of pressure placed upon those adjusters if they deviate from the recommendations made by the computer regarding the value of another human's claim.

As a result, many attorneys representing claimants complain that human adjusters would otherwise settle claims and blame the Colossus analysis as an excuse for not doing so. Thus, the Colossus analysis and recommendation becomes paramount if a claimant is to receive fair treatment from Allstate.

Unfortunately, an old adage becomes very important – “**garbage in results in garbage out.**” The adjuster conveniently blames the computer software program as an alleged reason for

not settling the case. The adjuster will not share the results of the information despite the fact a written report is generated, nor will the Allstate adjuster explain how the computer software program arrived at its conclusion(s). While many would certainly claim that Allstate should openly share the information with its own policyholders – and third-party claimants if one really believed it treated third-party claimants the same as policyholders - if it was really looking out for the policyholder's interests, Allstate simply refuses to share how the information is manipulated by the computer program to provide the result it renders.

Nevertheless, some very important lessons can be gleaned from the aforementioned and from the relatively few materials available regarding Colossus. First, the adjuster putting the information into the Colossus program may not be adequately or properly trained so that the misinformation placed into the program places a lower value on the claim than what the software program would otherwise make. While very few adjusters will ever share how they in-put this information, it is strongly suggested that the attorney go over in detail each fact regarding each injury, the initial treatment, the subsequent treatment, the future treatment, each prognosis with respect to each part of the body injured and the duration of injury and/or impairment for each part of the body injured. The Colossus program breaks down these injuries in a very detailed fashion and requires the adjuster to make numerous entries which the adjuster may have improperly in-putted by not correctly reading the information about the case. It does little good to argue in generalities regarding the injury and settlement value if the adjuster is prevented from offering a higher amount because of “garbage in” information.

Further, ask the adjuster what the settlement ranges and evaluation ranges are regarding the Colossus report. From the best information available, Colossus will provide the adjuster a “recommendation” regarding settlement. Detailed notes regarding these conversations should be

kept by the claims attorney if it later turns out that the Allstate adjuster deceptively offered an amount less than these ranges.

A perfectly acceptable method to settle these cases would seem to have Allstate simply offer the amount it determines to be within the fair settlement range generated by Colossus. Instead of claimant's attorneys being accused of asking for "too much" for a particular injury, a number of claimant's attorneys have simply asked the insurance company to make the first offer which they believe is fair based upon the computerized opinion from Colossus. Since Allstate has invested so much money to license this equipment and make "fair" evaluations, it would seem Allstate should be willing to offer and share the results of evaluations with its shareholders. After all, it was the shareholders whose premiums paid for this software to begin with.

Finally, many catastrophic injuries and significant subjective scarring cases have not been traditionally within the use of Colossus. Certainly, the software program will have a greater difficulty providing an accurate range in the major catastrophic case than in cases where there is a greater historical data base upon which it can rely. Attorneys representing catastrophically injured claimants should not expect any Colossus type of adjustment from Allstate which is accurate.

CONCLUSION

Artificial intelligence programs and claims adjustment is becoming more widespread. Health insurance companies and disability companies have been using the same for a long period of time in making claims decisions, including denials, with very little human in-put. It is not surprising that other insurance companies in the casualty field have found it far more profitable to have humans rely upon machines in the determination of human claims rights because

machines have no human emotion and base calculations made on unemotional software directions.

In the movie, **2001: A Space Odyssey**, a computer driven by a software program developed by humans killed the humans it was made to serve. When the computer, "Hal," told Dave, "Sorry, Dave," the computer was merely acting on instructions another human gave it. Today we are in the exact position as Dave because these computers and the individuals who developed their directions determine whether an individual's claim is denied or paid and will even make such important decisions as whether a particular medical treatment is reasonable or necessary. God help all of us as these non-living insurance corporations take the human emotion out of the art of adjusting people's catastrophes. These are very important and life long decisions being proxied to machines