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## LEGAL BYTES FROM CHARLIE

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Dear Friend:

Many of you have had motor vehicle accidents (MVA) where you have suffered what is commonly called "soft tissue injuries." You have felt the pain from muscle tearing and related tissues hemorrhaging typically from a cervical or thoracic or lumbar strain/sprain, typically called whiplash. Depending on who you are, it can sometimes take a long time for these injuries to heal. There is no x-ray or MRI to help show objectively the injury you have suffered.

Increasingly, insurance companies throughout the United States are using a computer program called Colossus in which data concerning your MVA (property damage, type of injuries, type of treatment, medical bills, etc. . .) is entered into a computer and then a settlement offer is presented based on what Colossus says. Unfortunately, as some of you have discovered, the offers made by the insurance company are shockingly and outrageously low. There is no explanation or justification for what some of the offers are. For instance, one ongoing case where a man in his mid-40s had his car totaled (over \$15,000 of damage) in a side impact and his medical bills amounted to approximately \$5,000 (ambulance, hospital care, and follow-up treatment) and some wage loss. The other driver was seriously injured and at fault for the accident. The offer from Farmers Insurance Company was \$3,100. That's right, less than the medical bills.

In a situation like that, there is no alternative for me other than to file suit and pursue this matter through litigation. That is not an isolated example. I have numerous cases where the insurance companies will offer very little above the medicals and they are relying solely on Colossus and many times the adjuster is not given any authority to adjust the settlement proposal given the particulars of the case. For instance, the case mentioned above, the individual that caused this accident was a young man who speaks only Arabic. I have a mid-40s farmer who is an extremely nice individual and who will make a very good appearance in front of a jury. He has never been in a prior accident. Those are things that matter to a jury. He is being cheated by the insurance company. Please remember these things when reading in the newspaper about how lawyers are filing lawsuits and pursuing matters more than they ever have. Think about who it is that caused these problems. From an attorney who takes pride in representing people who have been injured in various types of accidents, I cannot let my clients just agree to any offer that the insurance company throws their way. It appears that Colossus is here to stay. There is some indication that



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matters will change, or be adjusted. However, that is yet to be seen. You also find frustration with insurance company defense attorneys who find they have no say in the matter and are told to obey Colossus or else.

Fortunately, I have had good success in trying these cases and have been able to get my clients more money than the offers being made.

### TWO RECENT CASES I TRIED

It is not unusual to get “low ball” offers from insurance companies. In a recent case in Madera County, the husband and wife became totally frustrated and upset with the insurance company that refused to accept a settlement offer (which was only a couple hundred dollars apart of the opening request) and the jury was totally convinced by his soft tissue injury to his shoulder that they awarded him approximately 5 times greater an amount than what their offer was at the settlement conference.

Another case, a lady was told that she would need surgery to her neck, which would cost over \$30,000 and her past medicals were over \$15,000. Her car was rear-ended and totaled from the accident. The insurance company offered \$25,000 before trial (and probably would have paid \$40,000) At the time of trial the other attorney, who disbelieved the need for surgery, said the jury should award \$8,000. The jury came back with an award of \$125,000.

A jury trial is not a guarantee that you will get more money. Fresno juries have known to be rather conservative in awarding general damages to people who have been injured. I believe that if you are honest about your injury, have been reasonably treated for your injuries, and cannot reach a fair settlement with an insurance company, then you have to sue to get a fair recovery. Most cases still won't go to trial but you can get a fairer recovery.

Very truly yours,

*Charlie*

CHARLES D. OREN