



BOULDER COUNTY BAR NEWSLETTER

1942 BROADWAY, SUITE 205
BOULDER, CO 80302

303.440.4758
FAX 303.402.6958

M A Y 2 0 0 5

WHIPLASH INJURIES SHOWN BY DMX TECHNOLOGY

BY DR. SEANA KATZ, DC

Skepticism consistently follows the "whiplash" claimant, who is typically questioned by insurance adjustors and even some plaintiffs' attorneys. Misperceptions range from the belief that whiplash injury doesn't exist or that limited automotive damage "proves" that the claimant wasn't injured, to the belief that people who claim whiplash injuries are malingers. Defense attorneys hark on these points when questioning a claimant's injuries at trial.

To effectively combat these objections, plaintiffs' attorneys must gain a general understanding of crash physics. In low speed crashes, the forces absorbed by the occupant vary. Studies show that these crashes can injure the spine and other structures.

One study revealed that "3.5 g trauma caused injury, which is low impact... Patient injury is not proportional to vehicle structural damage. Inertial injuries often occur in the absence of vehicle damage. It is more relevant to know about the patient awareness and head position than car damage."¹ Another study found that there is no connection between risk of injury and speed, expressed as the change in velocity, or "delta V." "In fact, the study showed that chronic injury rates at delta V's of 5-10 km/h were twice that of 10-15 km/h."² The lack of a direct link between delta V and long-term neck injury rates calls into question unfounded minimizations of injuries.

After dispelling notions about low-speed crashes, plaintiffs' attorneys still must contend with the defense position highlighting the lack of "pos-

itive findings" from MRIs, bone scans and X-rays. All of these imaging systems are used when the patient is not moving and usually not bearing weight. Static images like the latter often miss ligament injuries, thereby not accurately reflecting the patient's condition. In fact, ligamentous injuries usually have a longer healing time and poorer outcomes than, for example, a broken bone.

Suffering the severe symptoms of whiplash (headaches, neck pain, increased pain with motion, dizziness, nausea and irregular pain patterns) left undiagnosed by typical imaging systems, clients/patients are often frustrated and feel that their complaints are not being addressed by their providers. The situation is exacerbated when plaintiffs' attorneys have little evidence to prove a claim of ligament damage.

If the ligamentous injury cannot be shown, determining an accurate impairment/disability rating is virtually impossible. Permanent impairment, one of the largest value drivers under the Colossus system (a computer program used by insurance companies), is a permanent loss of function subse-

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