

news

Natural body aging used to lessen insurance claim

We all despise those who try to cheat an insurance company. What about when the shoe is on the other foot?

There are a number of common arguments that some insurance adjusters make that are so lacking of foundation in logic, science and law that I consider them an attempt at cheating. This column

is the first in a series that will expose those arguments.

The most ridiculous has to do with the natural wear and tear, 'degeneration' that occurs in the spine.

It is a natural process that cannot be avoided; it happens to all of us. It starts at a young age and progresses year after

Achieving Justice

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year. At some point, it will become significant enough that it will show up on an x-ray or other scan.

The degeneration process occurs at different rates for different people. My 45-year-old spine might have more or less degeneration

than that of another 45-year-old man. Degrees of degeneration are referred to in terms of

"mild", "moderate" and "severe."

It sounds scary. Anything to do with our spines sounds scary. There's really nothing to be afraid of. It's part of the normal, natural aging process.

How does this natural aging process form part of a baseless insurance company argument?

You're injured in a car crash. Before the crash, you had no back or neck pain. After the crash, you do. An x-ray is taken of your spine to rule out a fracture. The x-ray shows degeneration.

"Look, there, at that degeneration in your spine. The crash didn't cause that. Your whiplash injury should have

resolved long ago. It must be that degeneration in your spine that's responsible for your ongoing pain."

It's an argument that is used to convince injured victims to accept far less than fair financial compensation for their injuries and losses. Does it have any basis?

If you were to look at the degree of degeneration in my spine, would you be able to accurately predict my level of back or neck pain? No, you wouldn't.

Scientifically, the level of spinal degeneration is a very poor predictor of pain and other symptoms. In other words, if you took x-rays of the spines of 1,000 people, you would not be able to predict which of those 1,000 are suffering from spinal pain by looking at the x-rays.

The irony is that instead of being an argument for reducing an entitlement to fair compensation, spinal degeneration best supports an argument for increasing it. The reason is that the greater your spinal degeneration, the more likely you are going to have long term pain arising from a spinal injury.

Our civil justice system works on a premise that "you take your victim as you find him." If you smash your car into the back of a stopped vehicle, you (your insurance company) is responsible to compensate your victim for all of his or her losses that would not have occurred had the crash not occurred.

If your victim happens to have a young, healthy spine, and injuries are very small, then your insurance company is lucky, and will have to pay a small amount of compensation for that small injury. If your victim happens to have an older, more degenerated spine, such that the collision triggers a lifetime of pain, then your insurance company is correspondingly unlucky.

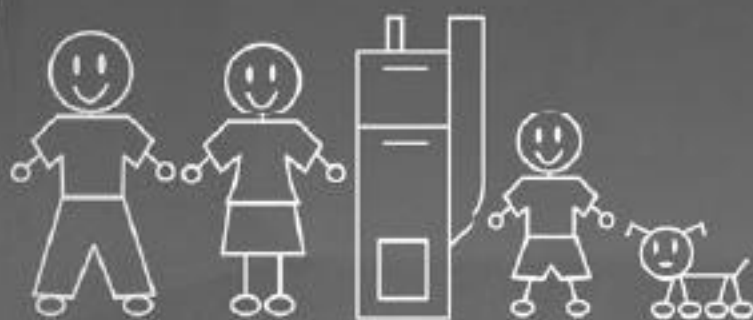
Don't let the bunk arguments of an insurance adjuster cheat you or those close to you out of fair compensation.

Better yet, insist always on attentive driving from yourself as well as those around you so as to prevent injuries from occurring in the first place.

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