



# PERSPECTIVES

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## Case Study: When An Injury Claim Is Made Without An Injury

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## INTRODUCTION

The claimant in the following case was a 57-year-old restrained driver who was sideswiped while driving next to a semi-tractor trailer attempting to move into her lane. The claimant alleged that the accident caused significant cervical and lumbar spine injuries and/or exacerbated her long-standing and progressive degenerative disc disease (DDD).

The claimant did not seek any evaluation for two days after the accident. With her long history of DDD, her initial presentation of neck pain was not different from her pre-date of loss (DOL) baseline. Initial exam records—that would have allowed for a complete comparison—were not included.

This article will discuss lacking Mechanism of Injury (MOI) details, largely subjective complaints and limited objective data, lapses in the treatment timeline, and understanding the medical baseline on the date of injury. The purpose of this paper is to familiarize adjusters and attorneys with certain concepts that should be considered when reviewing an injury claim without an injury.

## MECHANISM OF INJURY (MOI)

The MOI did not support the driver's complaints. Damage to her vehicle appeared only to include scratches along the entire driver's side of her car (Figure 1). Accordingly, there was no MOI resulting in significant cervical or lumbar injury. Finally, the claimant did not provide details of the MOI to her providers.



*Figure 1 - Analyzing the Mechanism of Injury is a key to the nurse review*

## COMPARISON OF PRE- AND POST-DATE OF LOSS (DOL)

In comparing the claimant's pre- and post-DOL records, the nurse reviewer discovered several mitigating data points:

- The claimant's history of DDD dated back to at least 2007, possibly earlier. The DOL was at least 11 years later.
- The claimant was treated with neurology and pain management quite extensively, both pre- and post-DOL. She received multiple cervical epidurals and lumbar facet blocks.
- The claimant's post-DOL presentation was not substantially different from her pre-DOL baseline, and her diagnoses and treatment plan did not change before and after the accident.
- Imaging of the spine noted the gradual progression of her DDD over the treatment timeline.

Finally, the claimant had an incident two years prior to the DOL in which she was hit by a bicyclist, causing her to fall. She alleged exacerbation of her DDD at that time and appeared to have also filed a suit regarding that incident.

## INCONSISTENCIES

The first of several red flags was that no injuries were reported at the scene. Another was that the claimant did not seek medical care for two days. After that visit there was a 12-day lapse in care, then a six-week lapse.

Additionally:

- There were no clinical records from the Urgent Care for the first medical visit. The driver's complaint of neck pain and diagnosis of neck strain was extracted from the patient visit summary.
- The post-DOL exam by the claimant's neurologist noted the MVA. However, no new imaging was ordered to evaluate for injury.
- The claimant had been advised to have anterior cervical discectomy and fusion (ACDF) surgery at least 10 months to a year prior to the DOL

- Post-DOL treatment with neurology and pain management was not different from pre-DOL treatment.
- The claimant's medication regimen was unchanged from pre-to post-accident.
- The MOI did not align with the driver's complaints.
- The first medical evaluation post-DOL did not include the actual medical records. Rather, only the patient summary of the visit was included with no Subjective, Objective, Assessment, Plan (SOAP) info.

Finally, the nurse reviewer noted a job-related factor. The claimant's job as an aesthetician could have exacerbated her neck pain complaints, as she was required to flex her head downward when providing services.

## CONCLUSION AND TAKEAWAYS

The nurse reviewer likely mitigated the overall exposure because of the lack of significant subjective and objective changes in the claimant's DDD. The relationship of ACDF surgery was mitigated, since it had been recommended a year prior to the loss.

Some important takeaways for the adjuster or attorney from this case include:

- Pre- and post-DOL record review is critical when dealing with individuals with extensive musculoskeletal and degenerative problems.
- Complete exam records from the first post-DOL evaluation are critical for comparison review.
- It is important to look at the diagnostics and treatment regimen within the context of the alleged injury and pre-DOL information and determine which scenario makes the most sense.
- It is important to understand the medical criteria for an ACDF and know whether those criteria are in the records. In this case, the surgery was proposed pre-DOL;

therefore, it is assumed the "criteria" were present pre-DOL. So, significant medical data and radiological evidence would need to be presented to support an advancement of the pre-DOL baseline pathology.

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