

Diffusing Deceptive Rhetoric from Insurance Companies

When settling cases, insurance companies will deploy **Deceptive Rhetoric** to mitigate or reduce settlement offers based on your demand letters. Today, I will discuss how to refute one of their most utilized topics. This deceptive rhetoric is employed when there are no “visual” injuries, such as fractures, internal injuries, or herniated discs in the spine. Their deceptive language goes like this.

All Sprains are Transient and Not Serious

Background:

Sprains are classified by severity as follows:

1. Grade 1 sprain (mild): slight stretching and some damage to the fibers (fibrils) of the ligament.
2. Grade 2 sprain (moderate): partial tearing of the ligament. There is abnormal looseness (laxity) in the joint when it is moved in certain ways.
3. Grade 3 sprain (severe): complete tear of the ligament. This causes significant instability and makes the joint nonfunctional.

Regardless of the severity of the sprain, there is tissue damage or bodily injury, and the next step is to determine if there is healing or **wound repair**. According to Woo, Hildebrand, et al (1999) “growth factor treatment has been shown to improve the properties of healing ligaments and tendons, however, these properties do not reach the level of the uninjured tissue” (p.s320).

According to Dozer and Dupree (2005) “no treatment currently exists to restore an injured tendon or ligament to its normal condition.” (pg.231)

According to Hauser, Dolan, Phillips, Newlin, Moore, and Woldin (2013) which is still the accepted standard of review for ligament injury and healing indicate “injured ligament structure is replaced with tissue that is grossly, histologically, biochemically and biomechanically similar to scar tissue. Fully remodeled scar tissue remains grossly, microscopically and functionally different from normal tissues” (p.6). Since remodeling ligament tissue is morphologically and mechanically inferior to normal ligament tissue, **ligament laxity results**, causing functional disability of the affected joints and predisposing other soft tissues in and around the joints further damage.” (p.7)

“Osteoarthritis or joint degeneration is one of the most common consequences of ligament laxity. Traditionally, the pathophysiology of osteoarthritis was thought to be due to aging and wear and tear on a joint, but more recent studies have shown that ligaments play a crucial role in the development of OA {86,87}. Osteoarthritis begins when one or more ligaments become unstable or lax, and the bones begin to track improperly and put pressure on different areas, resulting in the rubbing of bone on cartilage. This causes the breakdown of cartilage and ultimately leads to

deterioration, whereby the joint is reduced to bone on bone, a mechanical problem of the joint that leads to abnormality of the joint's mechanics {23,87}. **Hypermobility and ligament laxity have become clear risk factors for the prevalence of osteoarthritis.**" (p.9)

Looking at the global research over the past 20 years It was concluded (in1999) that the most current treatments to repair or heal the injured ligament do not reach the level of the uninjured tissue. In 2005, it was concluded that no treatment currently exists to restore an injured tendon or ligament to its normal condition. Also as stated above, the current standard of ligament research in 2013 concluded that ligaments do not heal independently, but damaged ligaments are a direct cause of osteoarthritis and biomechanical dysfunction (abnormality of joint mechanics). The latest research has also concluded that ligament damage or sprain is the key element in osteoarthritis and not simply aging or wear and tear on the joint.

As a result, it is now clear based upon the scientific evidence that a soft tissue injury is a **connective tissue disorder** that has permanent negative sequella and is the cause of future arthritis. This is no longer a debatable issue and those in the medical-legal forum who are still arguing "transient soft tissue injuries", are simply rendering deceptive rhetoric out of ignorance and/or a possible ulterior motive, because the facts clearly delineate the negative sequella based on decades of multiple scientific conclusions.

Discussion/Solution

We now know that all sprains are permanent, however, how do we know (for example in a motor vehicle accident) if the bodily injury leads to permanent functional loss in a specific injury or crash. To determine this, we must look at the function of the ligaments, which is to connect bones to bones, and is the arbiter for normal vs. abnormal function.

The first method to show **demonstrable evidence** is by utilizing a two-piece inclinometer for the spine to determine aberrant ranges of motion. According to the American Medical Association Guide to Evaluation of Permanent Impairment, this is the standard for ranges of motion.

The second method which we utilize has led to a 708% increase in settlements without HNP's is through X-ray digitizing, **which can demonstrate laxity of the ligaments**. As we know from the research above from Hauser et al., ligamentous laxity can and will lead to premature osteoarthritis and is demonstrable through new technology. We utilize Symverta, which is a tool to digitize and show ligamentous injury consistent with Alteration of Motion Segment Integrity (AOMSI), as shown on pages 384 and 392 of the AMA guides to impairment. If there is an AOMSI over 3.5 mm in translation or angular motion of more than 11° (in the cervical spine), that is equivalent to the same impairment level as losing a limb. This is DRE cervical category IV which contemplates a 25 to 28% impairment of the Whole Person as shown on page 392 of the Guides to Evaluation of Permanent Impairment.

If you have any further questions, please do not hesitate to contact me.

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