

# **Successful treatment of low back pain and neck pain after a motor vehicle accident despite litigation**

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FROM ABSTRACT

## **OBJECTIVE.**

This prospective study evaluated 39 consecutive patients with low back pain (LBP) or neck pain that resulted from a motor vehicle accident who had litigation pending.

## **METHODS.**

Patients completed a McGill Pain Questionnaire (MPQ) to quantify pain and an Oswestry Low Back Disability Questionnaire (OSW) to quantify function and were interviewed regarding medications and work status at initial and final visits.

## **RESULTS.**

Thirty-three patients completed an MPQ at initial and final visits.

Pain decreased in 29 (88%) and increased in four (12%).

Thirty-eight patients completed an OSW at initial and final visits. Function improved in 34 and worsened in four.

The authors observed statistically significant improvements in pain, function, and medication use.

## **CONCLUSION.**

Patients with low back pain or neck pain resulting from a motor vehicle accident showed a statistically significant improvement with treatment despite ongoing litigation.

## **THESE AUTHORS ALSO NOTE:**

"A significant number of people experience low back pain (LBP) or neck pain after a motor vehicle accident."

In most of these patients, a structural source for their pain is not identifiable.

"Magnetic resonance imaging or computed tomographic scans are normal or show only mild structural changes."

These patients are considered to have "soft tissue pain" and are "looked upon disparagingly by the medical and legal communities and may be considered to have 'accident neurosis'."

"The litigation [and potential monetary gain] itself is believed to be the major reason why patients with minimal structural pathology fail to improve. It also is believed that these patients get better after the case is settled."

"However, our clinical impression is different. We had treated many patients with neck pain or LBP after a motor vehicle accident and found they responded well to treatment."

All patients in this study were referred for treatment (not for a medical-legal evaluation) of back or neck problems by an attorney, following a motor vehicle accident. Their evaluation included use of the McGill Pain Questionnaire and the Oswestery Low Back Pain Disability Questionnaire.

All patients in this study had an attorney and pending litigation; no legal cases were settled until after the patient was discharged from treatment.

Treatment included aggressive physical therapy of cervical or lumbar stabilization training, occasional corticosteroid injections, and/or non-steroidal anti-inflammatory drugs.

"Patients remained in treatment until they were pain free and functionally normal or until a permanent and stable plateau was reached despite continuing symptoms."

"The mean duration of treatment was 29 weeks [7 months 1 week]."

The range of treatment was 8 weeks (2 months) to 108 weeks (2 years and 1 month).

All 39 patients were employed on the day of injury.

27 patients were working on the day of their first treatment.

38 were working at their final treatment visit.

There is little supportive evidence to imply that "patients who suffer pain because of a motor vehicle accident and who are involved in personal injury litigation may not recover until after litigation is settled."

The results of this study shows that patients do well, with significant reduction in pain and improvement in function despite litigation. In other words, "litigation does not interfere with successful outcome" for whiplash-injured patients.

The patients in this study were acute or subacute, "not entrenched chronic pain patients."

Patients were treated until they became pain free, or until they reached maximum improvement. Maximum improvement was claimed after "mild-to-moderate pain remained stable for approximately 8 weeks." **[Important]**

"It is stated that over 50% of patients without objective findings improve significantly after litigation is settled, implying that the secondary gain perpetuates pain. However, neither the literature nor the natural history of neck pain after motor vehicle accidents supports this view." [6 references]

"Neck pain may persist for a long time after a motor vehicle accident." These authors present a literature review to make the following points:

- 1) In a series of whiplash injured patients followed for a period of 13 – 31 months, 44% with initial normal ranges of motion and no neurological deficits suffered from long-term symptoms.
- 2) In a series of whiplash injured patients followed for a period of 13 – 31 months, 81% with initial restricted ranges of motion suffered from long-term symptoms.
- 3) In a series of whiplash injured patients followed for a period of 13 – 31 months, 90% with initial restricted ranges of motion and with neurological deficits suffered from long-term symptoms.
- 4) In a series of whiplash injured patients followed for a period of 13 – 31 months, "there was no statistically significant change in symptoms after [litigation] claims were settled."
- 5) In a series of whiplash injured patients followed for a period of 13 – 31 months, "pre-existing degenerative changes on initial x-rays, no matter how slight, had a worse prognosis."
- 6) In a series of whiplash injured patients followed for a period of 13 – 31 months, 25% of the most severely injured patients deteriorated after litigation settlement.
- 7) In a series of whiplash injured patients followed for a period of 13 – 31 months, 8 – 12 years later, only 12% had completely recovered from their injuries. Also, 48% had mild pain that did not interfere with work or social activities; 28% had severe pain that interfered with both work and leisure activities and required drugs or orthosis; 12% continued to have severe problems.
- 8) "Years after litigation had been settled, the patients who had more pain initially still were in more pain, implying that settlement of the litigation did not lead to improvement."

9) In another study that evaluated 205 patients 10 years after treatment for neck pain, 43% had no pain, 36% had less pain, 13% had the same amount of pain, and 8% were worse. "Patients with more pain early tended to have more pain 10 years later, regardless of litigation."

Evidence to support the idea that litigation prolongs pain and disability is scant, and often relies on the Gotten study from the Journal of the American Medical Association in 1956. The Gotten study has problems and is flawed because:

- 1) Gotten is a retrospective study.
- 2) The 219 initial whiplash-injured patients in the study "were selected by their physician if they were suitable for the study." This means that the Gotten study patients were not consecutively or randomly selected and therefore the study conclusions cannot be applied to the general population.
- 3) The treatment of the patients is unknown.
- 4) The patients were evaluated by a medical student 1 – 26 months after settlement of litigation claims, yet only 100 of the original 219 patients were located, with the following findings:
  - 54% were pain free
  - 34% had minor discomfort
  - 12% had significant pain
- 5) "Because 88% had improved to some degree, the author reasoned that improvement was due to settlement of claims."
- 6) Gotten "cannot be used to justify the idea that settlement of litigation results in improvement of symptoms."

"The present study and the overwhelming evidence in the literature confirm that patients with neck pain or LBP that occur as a result of a motor vehicle accident are not 'cured by verdict'."

"Patients with low back pain or neck pain showed statistically significant improvement with treatment despite litigation."

## KEY POINTS FROM DAN MURPHY:

- 1) "A significant number of people experience low back pain (LBP) or neck pain after a motor vehicle accident."
- 2) In most of these patients, a structural source for their pain is not identifiable.
- 3) "Magnetic resonance imaging or computed tomographic scans are normal or show only mild structural changes."
- 4) "The mean duration of treatment was 29 weeks [7 months 1 week]."
- 5) The range of treatment was 8 weeks (2 months) to 108 weeks (2 years and 1 month).
- 6) There is little supportive evidence to imply that "patients who suffer pain because of a motor vehicle accident and who are involved in personal injury litigation may not recover until after litigation is settled."
- 7) The results of this study shows that patients do well, with significant reduction in pain and improvement in function despite litigation. In other words, "litigation does not interfere with successful outcome" for whiplash-injured patients."
- 8) This study judged "maximum improvement" to be when there was no significant change in symptoms and measurement outcomes for approximately 8 weeks. **[Important]**
- 9) "It is stated that over 50% of patients without objective findings improve significantly after litigation is settled, implying that the secondary gain perpetuates pain. However, neither the literature nor the natural history of neck pain after motor vehicle accidents supports this view." [6 references]
- 10) "Neck pain may persist for a long time after a motor vehicle accident."
- 11) Initial reduced range of motion and/or having neurological deficits significantly worsens the prognosis for recovery following whiplash injury.
- 12) In whiplash-injured patients, "pre-existing degenerative changes on initial x-rays, no matter how slight, had a worse prognosis."
- 13) "The present study and the overwhelming evidence in the literature confirm that patients with neck pain or LBP that occur as a result of a motor vehicle accident are not 'cured by verdict'."
- 14) "Patients with low back pain or neck pain showed statistically significant improvement with treatment despite litigation."