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Do I Have A Case If The Accident Aggravated My Back Or Neck?

If you had a problem with your neck, back, or other medical condition which was worsened by the accident, you can still make a case for damages in Pennsylvania.

The at-fault party and their insurance company are responsible if they caused your condition to get worse. Sometimes this is referred to as an aggravation or exacerbation of a pre-existing condition. Basically, they must take you as you are. Because the at-fault insurance company often tries to avoid paying your claim, or paying the fair value, they will try to blame your injuries on a "pre-existing medical condition". They may try this even if you didn't have pain or symptoms beforehand by saying it's a "degenerative condition" (meaning wear and tear over time).

There is actually a suggested "jury instruction" on aggravation of a pre-existing condition. The instruction is based on Pennsylvania case law. This type of instruction is something we can request the Judge read to a Jury in Court before they decide a case.

6.03 (CIV) PREEXISTING CONDITION OR INJURY- Aggravation

Damages should be awarded for all injuries caused -- even if:

1. the injuries caused by the incident were more severe than could have been foreseen because of the plaintiff's prior physical condition; or

2. a preexisting medical condition was aggravated by the incident.

If you find that the plaintiff did have a preexisting condition that was aggravated by the defendant's negligence, the defendant is responsible for any aggravation caused by the incident.

Now, the majority of cases will be settled or resolved before going to Court or Trial. This is a useful argument with the insurance company when trying to settle the case. Remember, the insurance company is motivated not by paying what's fair, but by what they see as their risk in a Courtroom.



We commonly get these arguments in representing our clients and are prepared to beat them with truthful, credible witnesses who have known or worked with you since before the accident as well as with your treating doctors. Our goal is to get the best result for you through the use of truth, credibility and hard work. By doing this we prevent the insurance company from paying less than what is owed.