

# Beyond Malpractice:

## Characteristics of Extended Litigation Involving Interventional Radiologists

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# Purpose

- To characterize lawsuits involving an interventional radiologist (IR) that advanced beyond trial court to the appellate court level or involved other non-routine judicial opinions (“extended litigation”)



# Background

- Malpractice, negligence, and wrongful death litigation have been linked to depression, burnout, and low career satisfaction <sup>i</sup>
- Diagnostic radiologists have national malpractice rates similar to those of other physicians
- The vast majority of surgical specialties have malpractice rates higher than the national average <sup>ii</sup>
- A recent article by Branach *et al.* described the distribution and characteristics of malpractice litigation amongst IRs, but did not focus on non-malpractice litigation
- There is a paucity of published information regarding the types of lawsuits that an IR physician or group practice may encounter beyond malpractice litigation



# Methods

- The Westlaw and LexisNexis legal databases of State and Federal Cases from 1983-2018 were searched by the terms “(Radiology or Radiologist) and Interventional”
- Cases were sourced from the Westlaw and LexisNexis databases
- All cases that contained the terms “interventional” as well either “radiology” or “radiologist” were manually screened for direct IR involvement
- Inclusion criteria used to determine direct IR involvement
  1. Individual IR or group practice including an IR listed as plaintiff or defendant
  2. IR directly involved in care in question, yet a larger entity (e.g., health system) named in his/her place
  3. Diagnostic radiologist directly involved in care, but the delivered care was procedural in nature

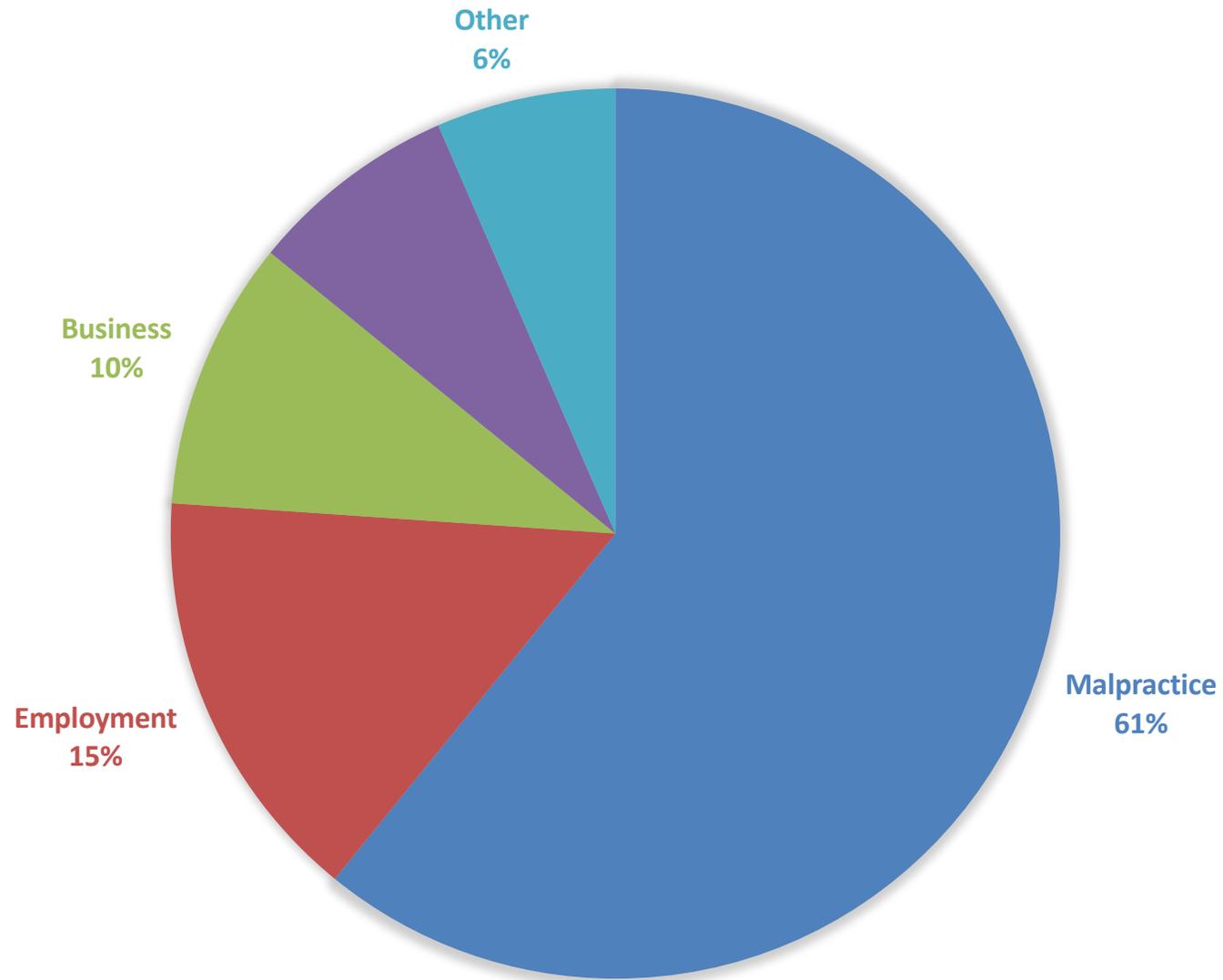


# Results

- 575 cases identified via search criteria in Lexis, 251 cases identified in Westlaw
  - Significant redundancy was encountered
  - All but 18 of the Westlaw cases were also found in Lexis
- 123 cases met criteria for IR involvement
- Duplicate cases (e.g., same dispute with multiple appeals, motions, or opinions) were eliminated
- 92 unique instances of litigation were documented after eliminating duplicates (same dispute, but multiple documented appeals, procedural motions, etc.)
  - Only 3 of the 92 instances were found in Westlaw but not in Lexis



## DISTRIBUTION OF IR LITIGATION BY TYPE



## Categorization of Extended IR Malpractice Litigation by Procedure or Organ Type

Type of Case	Percent of Cases (N)
Vascular	32.1 (18)
Neuro	19.6 (11)
Gastro-Hepatic	16.1 (9)
Renal/Adrenal	8.9 (5)
Cardiothoracic	7.1 (4)
Gynecological	3.6 (2)
Unknown	12.5 (7)



## Discussion, Part 1

- With only 92 cases over 35 years, extended litigation involving IRs remains uncommon
- Litigation beyond malpractice makes up a substantial share (39.1%) of extended litigation that IRs encounter



## Discussion, Part 2

- Litigation regarding disability insurance (7.6%) shared the common characteristic of an injury disqualifying a physician from IR practice that may not disqualify that same physician from DR practice
  - Maintaining an ergonomically sustainable work environment may be an important practice consideration
  - Take into consideration current balance of interventional vs. diagnostic practice and desired balance of practice when purchasing disability insurance
- Business (i.e. group v. hospital) and employment (i.e. physician v. group) disputes are another frequent source of litigation (25%)
  - Bullet points here



# Limitations

- The LexisNexis and Westlaw databases for the most part only contain cases that reach the appellate level
  - They do not include malpractice complaints or other disputes are addresses solely by a trial court, settled out of court, or through arbitration
- The vast majority of malpractice litigation involving physicians are settled, resolved or dismissed before the appellate level
  - The frequency with which non-malpractice cases (e.g., disability and employment law disputes) are settled out of court is unknown
- Cases are only published in national legal databases so only represent a small fraction of the total # of malpractice cases litigated
- Published claims are authored for a legal audience and selectively uploaded by attorneys



## Future Lines of Inquiry

- Does litigation other than malpractice lead to similar patterns of burnout, depression, and decreased career satisfaction?
- From initiation to resolution, what types of litigation have a longer duration?
- How do the rates of malpractice and non-malpractice litigation differ between diagnostic and interventional radiology?



# References

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