

# Trends in National Medical Malpractice Litigation Related to Spine Procedures: Insights from the WestLaw Legal Database

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## Introduction

- Malpractice litigation is an important consideration for spine surgeons due to the high stakes nature of their procedures, the potential for complications, and the need to uphold a standard of care.
- Westlaw Database includes more than 40,000 reports on of case law, state and federal statutes, administrative codes, newspaper and magazine articles, public records, law journals, law reviews, treatises, legal forms and other legal documents.

## Discussion & Conclusions

National medical malpractice litigation trends reported since 2018 show that orthopedic surgeons practicing within private medical businesses are most susceptible to lawsuits following spinal procedures. Notable themes brought to light during this investigation included patient injury during transport, accidental use of recalled surgical devices, migration of implanted devices, and failure to deliver timely intervention. These findings may provide context for spine surgeons in training regarding risk of legal action associated with this subspecialty.

## Objectives

This study reports trends over the last 5 years in malpractice litigation following spine procedures in the U.S.

## Methods

A retrospective study performed on WestLaw - a national research platform for legal professionals - queried cases filed since January 1, 2018 using keywords “medical malpractice” and “spine”. Of 1,777 yielded results, 204 cases were excluded because their content fell outside the scope of this study. 1,573 cases were analyzed for final verdict, specialty of defendant, designated settlement, and primary premise of litigation.

## Results

- Verdicts favored the defendant physician(s) in 86% of cases.
- Of the 14% of cases with verdicts favoring the plaintiff, the average settlement was \$7,721,386.
- Of these settlement lawsuits, the most common case complaint was translocation of foreign objects placed during previous surgery.
- Gross negligence (38%) was the most cited alleged malpractice, followed by deviation from proper standard of care (28%), inadequate informed consent (17%), and failure to diagnose (17%).
- The primary defendants were orthopedic surgeons (36%), neurosurgeons (28%), chiropractors (12%), and other physicians - radiologists, anesthesiologists, or internal medicine physicians (24%).
- 51% of cases were filed against practitioners in private institutions, whereas 49% were filed against clinicians practicing within public hospital systems.