CRITICAL REVIEW OF ONCOLOGIC MEDICAL MALPRACTICE CLAIMS AGAINST ORTHOPAEDIC SURGEONS

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I (AND/OR MY CO-AUTHORS) HAVE NOTHING TO DISCLOSE

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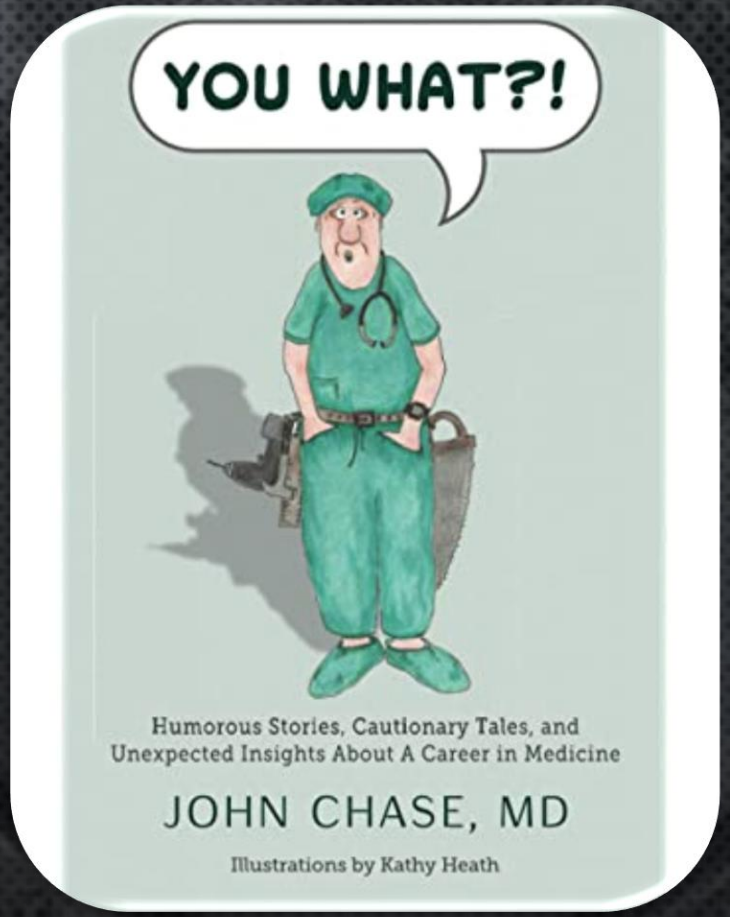
INTRODUCTION

- Medical malpractice claims are on the rise

- Average policy costs:
  - TX non-spine: $20-40k per year
  - NY non-spine: $141k per year

- Settlements are common to avoid:
  - Time
  - Stress
  - Legal fees



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THE ORTHOPAEDIC FORUM

Outline

Images

Lessons Regarding the Safety of Orth Patient Care

An Analysis of Four Hundred and Sixty-Four Clo Malpractice Claims

Matsen, Frederick A. III MD[1]; Stephens, Linda PhD[2]; Jette, Jocelyn L. BS[1]; Warme, Winston J. MD ; Posner, Karen L. PhD[2]

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Original Investigation

ONLINE ONLY FREE
June 21, 2017

Allegations of Failure to Obtain Informed Consent in Spinal Surgery Medical Malpractice Claims

Jennifer Grauberger, BA[1,2]; Panagiotis Kerezoudis, MD[1,2]; Asad J. Choudhry, MBBS[3]; et al
» Author Affiliations | Article Information

JAMA Surg. 2017;152(6):e170544. doi:10.1001/jamasurg.2017.0544

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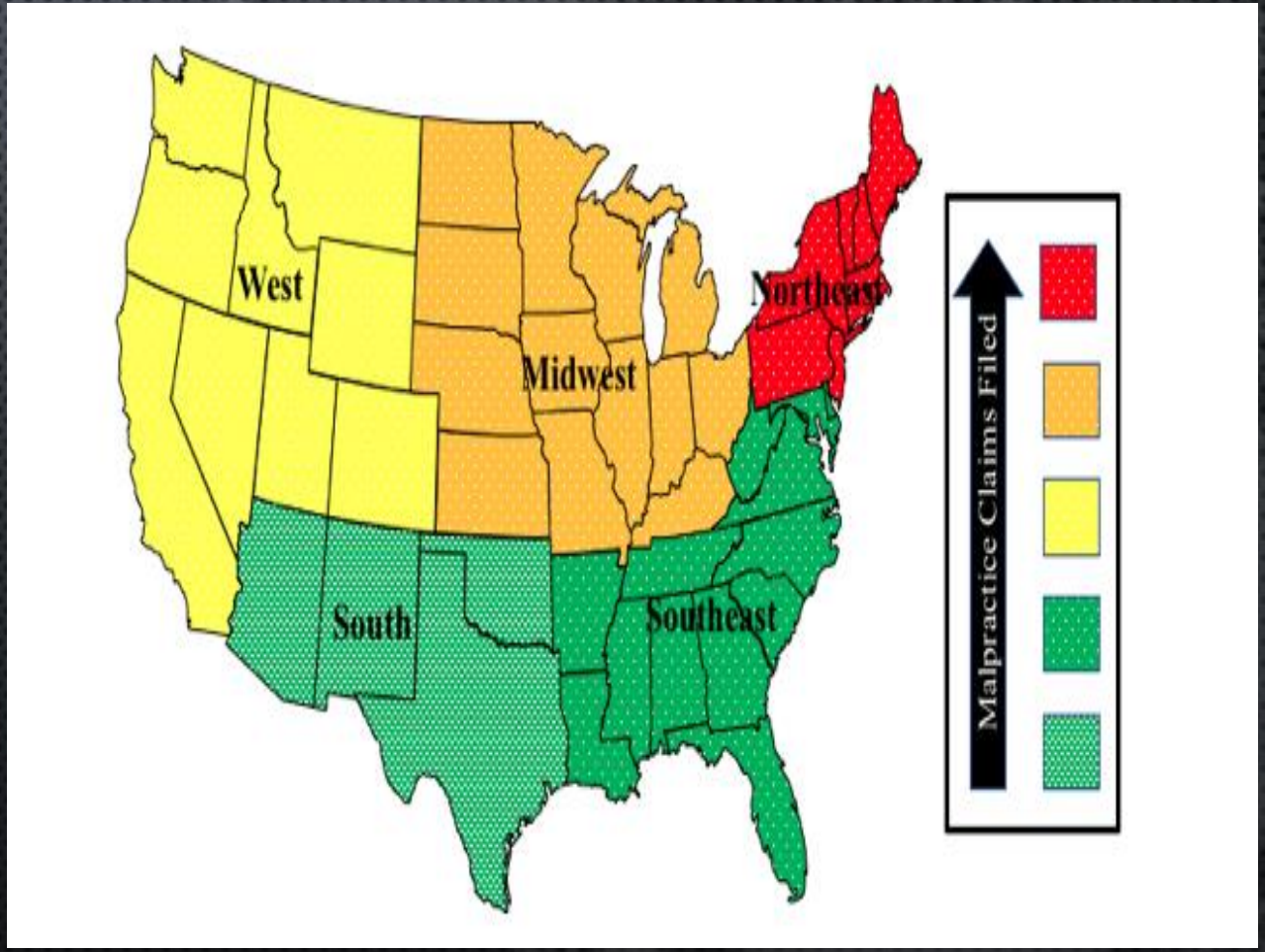
RESULTS

Factor	Number of Cases Filed
Overall Age of Plaintiff	
Adult	31 (86%)
Minor	5 (14%)
Women Plaintiffs	21 (58%)
Country Region	
Northeast	17 (47%)
Southeast	4 (11%)
Midwest	7 (19%)
Southwest	2 (6%)
West	6 (17%)
Cancer Types	
Benign	4 (11%)
Sarcoma	17 (47%)
Carcinoma	7 (20%)
Not Specified	8 (22%)
Year of Case	
1980-1989	9 (25%)
1990-1999	8 (22%)
2000-2009	10 (28%)
2010-present	9 (25%)



RESULTS

Reason for Litigation	Defendant Verdict	Plaintiff Verdict	ettlement	Pending/ Unreported	Total Available
Failure to Diagnose *(primary malignant sarcoma)*		5	1	0	15
Failure to Diagnose *(unrelated carcinoma)*		1	0	0	7
Treatment Error *(post/intra-operative complication)*		0	0	0	7
Incomplete Informed Consent		0	0	1	3
Failure to Diagnose *(primary benign lesion)*		0	0	0	2
Failure to Diagnose *(diagnostic biopsy error)*		0	0	1	1
Wrongful death		0	0	0	1

Average Payout: $1.8 million

CONCLUSION

- Malpractice claims cause significant distress to patients and surgeons alike
- You don't need to be an expert: you just have to follow up and trust your gut
- John Chase: wait more than 12 seconds to interrupt your patients
- Ultimately we are here to serve and protect the patient