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Characteristics of Radiologist Expert Witnesses Serving for Defense vs. Plaintiff

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Disclosures

- The authors have no financial or fiduciary disclosures relevant to this presentation.



Introduction

- Goals & Objectives

- To assess the characteristics of radiologist expert witnesses and to ascertain differences between plaintiff and defense experts

- Target Audience

- Defendants and plaintiffs who might wish to procure the services of a radiologist in malpractice litigation.
 - Radiology governing bodies that define the professional standards and expectations for radiologists who serve as expert witnesses.



Background

- In malpractice litigation, expert witnesses play an essential role in determining whether a breach of the standard of care has occurred.
- ACR guidelines of conduct for radiology expert witnesses include:
 - Impartiality, objectivity are expected
 - Bias should be minimized
 - Familiarity with the standard of care
 - Compensation may not be linked to the case outcome
- Expert testimony is lucrative, with compensation on the order of hundreds of dollars per hour of testimony
- Previous studies in other specialties have established differences in the qualifications of defense experts versus plaintiff experts



Methods

- The WestLaw legal database of State and Federal Cases from 2010-2019 was Boolean searched by the following terms: [“malpractice” AND “expert” AND “witness” AND (“radiology” OR “radiologist”)]
- Cases were manually screened for expert witness testimony by practicing radiologists who were subsequently identified by the national provider identification (NPI) number
- For each expert, the following datapoints were collected:
 - H-index
 - Number of citations
 - Number of publications
 - Years of experience since training
 - Nature of clinical practice (generalist vs. subspecialist)
 - Practice setting (academic vs. non-academic)
 - Number of identified cases and whether testimony was for defense or plaintiff



Results

- 1,042 potentially relevant cases were identified via search criteria in WestLaw
- Duplicate cases (e.g., same dispute with multiple appeals, motions, or opinions) were eliminated
- 179 unique radiologist experts were identified providing 231 unique instances of radiologists expert testimony
- 143 experts testified in only a single case
- Of the 36 experts testifying in multiple cases, these experts disproportionately provided testimony exclusively for either defendant or plaintiff parties
- There existed no significant difference between plaintiff and defense experts for: years of experience ($p=0.82$), number of publications ($p=0.88$), number of citations ($p=0.29$), h-index ($p=0.99$), generalist vs. subspecialist practice ($p=0.83$), and academic vs. nonacademic practice ($p=0.29$)



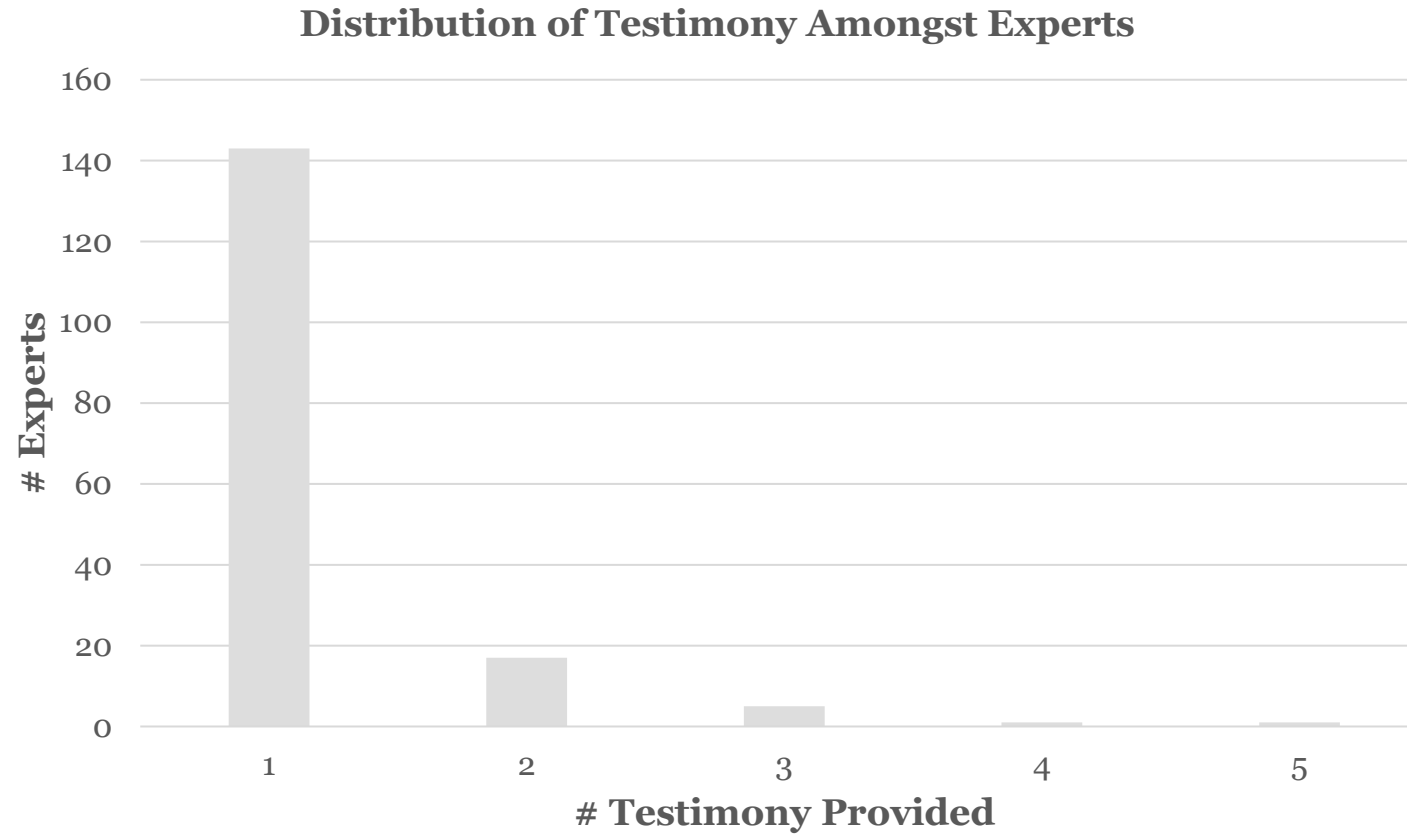
Results

	Defense (n=68)	Plaintiff (n=99)	p-value
Years Experience	29.3	30.4	0.82
Publications	60.5	66.5	0.88
Citations	1994.1	2269.9	0.28
H-index	17.2	17.0	0.99
Practice Setting (% academic)	44.6%	54.9%	0.29
Practice Setting (% subspecialist)	60.0%	57.1%	0.83

Characteristics of Radiologists Expert Witnesses for both
Defendant and Plaintiff Parties



Results

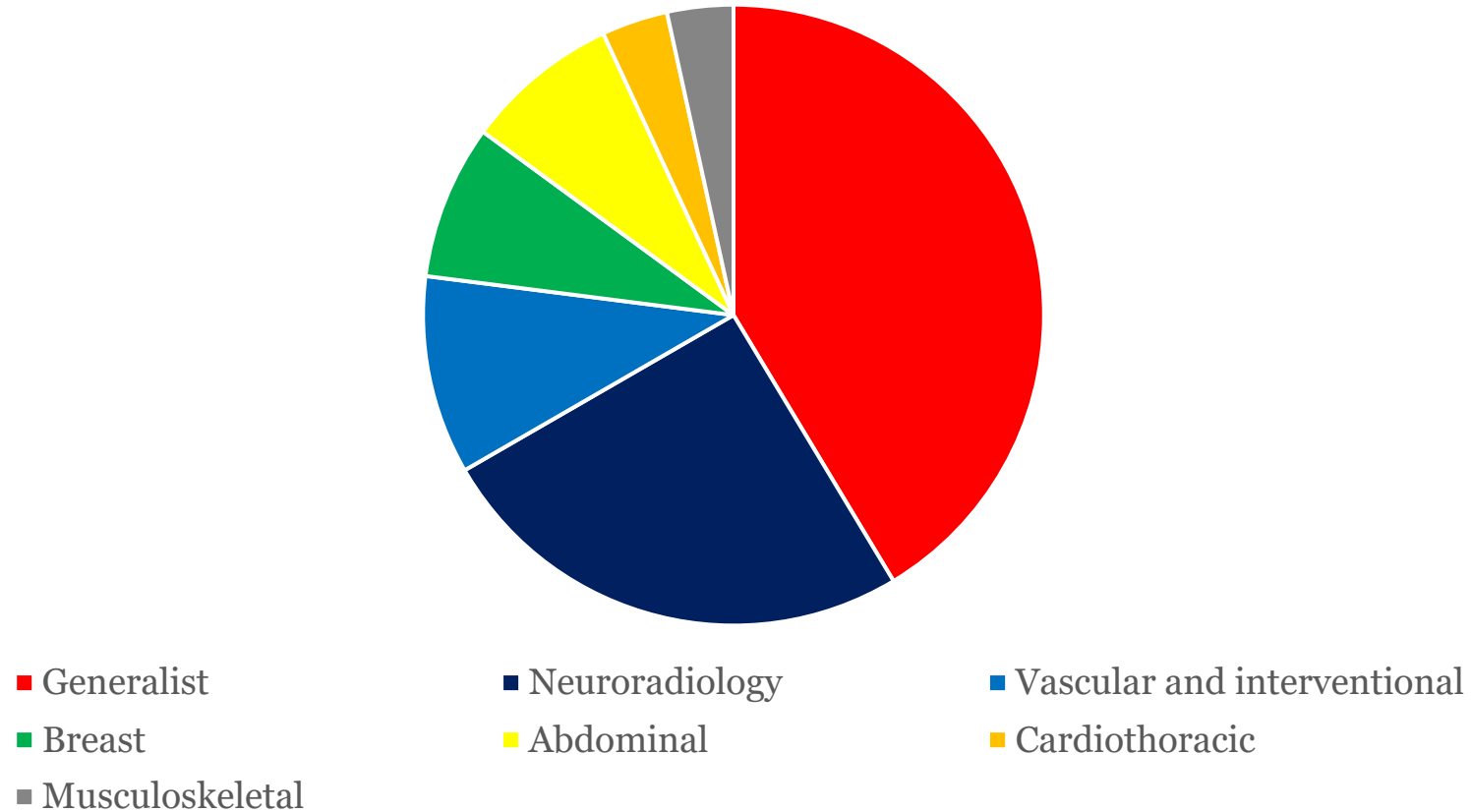


179 unique radiologists provided testimony 231 times with
most experts testifying only once



Results

Distribution of Radiologist by Practice Pattern



Testimony was most frequently provided by generalists, but a plurality of experts (59%) had a subspecialty practice pattern (>50% of Medicare wRVU from a single clinical category)



Discussion, Part 1

- Unlike other specialties, there is no significant difference in the qualifications of radiology experts testifying for defense or for plaintiff.
- The archived nature of original imaging and published practice parameters documents in radiology might explain the similarity of expert qualifications amongst radiology expert witnesses.
- The analysis comparing witness expertise excluded those who testified multiple times for both plaintiff and defendant parties, a methodology that would bias results in favor of a positive result. A comprehensive failure to reject the null hypothesis across all measurements of expertise lends additional credibility to the finding that there is no difference between plaintiff and defense experts.



Discussion, Part 2

- The practice patterns of testifying radiologists reflect the case burden of malpractice litigation in radiology, with neuroradiology and interventional litigation being the most prevalent
- Among the experts testifying multiple times, the disproportionate distribution of radiologists who testify exclusively for either defendant or plaintiff parties may raise ethical concerns



Limitations

- The WestLaw database for the most part only contains cases that reach the appellate level.
 - It does not include malpractice complaints or other disputes that are addressed solely by a trial court, settled out of court, or through arbitration.
- Most malpractice litigation involving physicians is settled, resolved or dismissed before escalating to the appellate level.
 - Radiologists who make themselves available for expert testimony often provide pretrial review of cases, and ultimately will not provide expert testimony in these cases if they are settled before trial. Radiologists providing pretrial expert services were not accounted for in this analysis.



Future Lines of Inquiry

- What differences exist between radiology and other specialties that might lead to differences in expert witness qualification for other specialties but not in radiology?
- How have expert witness reimbursements and patterns changed over time?



References

- List here

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