A Rock and a Hard Place: Thoracic Outlet Syndrome and Malpractice Litigation

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Objectives:
Thoracic outlet syndrome (TOS) is a spectrum of disorders through which the underlying pathologic mechanism is felt to be compression of neurologic and/or vascular structures at the thoracic outlet. Management of these conditions is dependent on a variety of factors, including the specific anatomic area involved and structures implicated. Controversy remains regarding diagnosis and management of the condition, due to limited data, lack of consensus regarding treatment options, and inconsistent outcomes. Currently, very little is known regarding malpractice litigation involving TOS. This retrospective case review is the most comprehensive analysis to date of TOS-related malpractice.

Methods:
The legal database LexisNexis was searched from 1950 to 2018 for all published legal cases in the United States involving TOS. Keywords included “thoracic outlet syndrome” and “malpractice”. Social Security Disability claims, product liability actions, and hospital employment contract disputes were excluded.

Results:
59 search results were eligible for initial review. 21 cases were included in final analysis, from 1981 to 2016. Overall, private practitioners were most often sued (15/21, 71.4%), while 19.0% (4/21) of defendants were community hospitals and 9.5% (2/21) were academic centers. Geographically, the cases were broadly distributed, with Ohio the most represented (3/21, 14.3%). A preponderance of plaintiffs were female (60%, 12/20). The most common underlying procedure was first rib resection (80%, 16/20), with upper extremity pain being the most common reason for surgical intervention (23.8%, 5/21). The most common reasons for suit were lack of informed consent (38.1%, 8/21) and intraoperative complications (38.1%, 8/21). Residual pain was the most common complication (52.4%, 11/21), followed by brachial plexus injury (19.0%, 4/21). The vast majority of available verdicts favored defendants (90%, 9/10).

Conclusions:
Analysis of malpractice cases involving TOS revealed key factors associated with litigation. Overall, verdicts favored defendants, and private practitioners were most commonly sued. Lack of informed consent and intraoperative complications were the most common reasons for suit. More nuanced awareness of issues related to TOS litigation may inform clinical practice regarding the condition. Specifically, the predominant complication of post-procedure residual pain suggests more comprehensive communication with patients regarding expectations and outcomes would be beneficial.