

# 'Trial by ambush,' lawyers say

• Second malpractice case involving suspended Ravenna surgeon argued before Ohio Supreme Court. Dr. Stephen Sveda and two chiropractors are appealing

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COLUMBUS: Dr. Stephen Sveda and two chiropractors at his medical company were "victims of a trial by ambush" when Dr. Kenneth Schulze Jr. gave surprise testimony, attorneys argued Tuesday in the Ohio Supreme Court.

This was the second malpractice case against Sveda to reach the state's highest court. Sveda, an orthopedic surgeon from Ravenna, has been suspended indefinitely from medical practice because of several other cases investigated by the State Medical Board.

On Tuesday, the Supreme Court considered a malpractice



Dr. Stephen Sveda, was suspended from practicing medicine.

judgment against Sveda and two chiropractors — David W. Snyder and Michael Shimmel — who practiced in a medical partnership in Ravenna called Correlated Health Services Ltd.

The court was asked to review the amount of damages awarded to injured patient Edward R. Savage, whether Correlated Health is

liable for those damages and whether testimony from Schulze, also a Ravenna surgeon, should have been allowed.

The trial and appellate courts had ruled that Savage, 58, suffered nerve damage to his lower back, and was rendered impotent and unable to control his bowels or bladder. The lower courts found all three defendants liable for those injuries.

The Ohio 9th District Court of Appeals in Akron concluded: "We do not find that Dr. Schulze was a 'surprise' witness." It rejected Sveda's request either to overturn the malpractice award against him or to order a new trial.

Sveda, who was Correlated's medical director, had referred Savage to Snyder for chiropractic manipulation, which was performed by Shimmel, who was covering appointments.

A Summit County jury awarded Savage, of Atwater Township, and his wife, Anna, \$1,035,000. But the judgment was reduced to cover other payments.

Attorneys for Sveda and the chiropractor contended that Schulze supplied the most damaging testimony when he was allowed to provide surprise evidence not obtained from depositions.

Schulze testified that Savage suffered permanent harm.

But Akron attorney Donald A. Powell, representing the two chiropractors, told the Supreme Court that he was "not prepared to defend opinions that weren't in existence prior to the trial's start."

Craig A. Grimes, a Cleveland attorney for Sveda, supported Powell's arguments, adding that before the 1989 trial, no doctor had given any evidence to link impotency and nerve damage.

Powell said Schulze arrived at a new opinion when he examined Savage just before trial. Schulze had not seen Savage for two years before that, Powell said.

Akron attorney Timothy Scanlon, representing the Savages, said: "Dr. Schulze was not a surprise and they knew it. It was always my intention for him to testify to harm."

In February 1990, the Supreme Court ruled on the first Sveda case to come before it. Justices allowed Sveda patient Courtney Herr to sue for malpractice stemming from 1984 back surgery, even though the statute of limitations had run out.

The State Medical Board disciplined Sveda on May 8 for 17 other cases that harmed at least three patients.