

\$4.1M settlement for mother, son in botched abortion case

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Long Island \$4.1M settlement for mother, son in botched abortion case BY ANTHONY M. DESTEFANO Newsday Staff Writer September 20, 2006 A Rockville Centre mother and her injured son won nearly \$4.1 million in a settlement of a lawsuit against several doctors who failed to properly perform an abortion. Karen Sheppard, 38, got \$300,000 and her son, Jo'Ell Sheppard-Mobley, 6, received \$3.8 million to settle charges that the doctors committed medical malpractice by mishandling the procedure, a misstep that led to Jo'Ell being born with physical and mental impairments, said Sheppard's attorney, Bruce Cohen of Rockville Centre. The lawsuit filed in Brooklyn State Supreme Court was settled Monday in the midst of jury selection for a trial, Cohen said. According to Cohen, the stage was set for a trial after the New York State Court of Appeals in 2005 ruled that Sheppard could revise her complaint to claim that she suffered emotional distress from the botched abortion. "This opens up a door for women's rights," said Cohen, who said that previously the law generally didn't allow a woman to recover for such injuries if a child was born alive. According to court records, the case stemmed from the discovery in 1999 that a pregnant Sheppard was suffering from uterine fibroids, which doctors believed wouldn't allow her to carry the fetus to term. Dr. Leslie King of Rockville Centre, an obstetrician, advised Sheppard to terminate the pregnancy and referred her to a second doctor, Ira Spector, who suggested she undergo a non-surgical abortion with the drug methotrexate, which breaks down fetal tissue, the Court of Appeals wrote. King administered the drug while Sheppard was in

her seventh week of pregnancy. At a follow-up visit to a radiologist, a sonogram indicated there was no fetal heartbeat, according to the court. But Sheppard became concerned about abdominal and pelvic discomfort and after getting another sonogram from a different radiologist, learned she was 28 weeks pregnant, according to court records. Jo'ell was born on March 3, 2000, suffering from fetal methotrexate syndrome and serious congenital problems that Sheppard claimed were caused by too small a dose of the abortion drug. The Court of Appeals said Sheppard could seek compensation for emotional damages suffered resulting from having undergone the unsuccessful chemical abortion. The damages Sheppard for which she could be compensated were those that occurred before the birth of her baby, Cohen said. The attorney said that Jo'ell has had five surgeries to repair skull deformities and a cleft palate. Cohen said that Jo'ell also has impaired hearing and cognitive limitations. Attorneys for King and Spector couldn't be reached for comment Tuesday. Sheppard also couldn't be reached.

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