

The Sun

**Case dismissed against nurse in parents' suit  
'Wrongful birth' litigation stands for two defendants**

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A Howard County judge yesterday dismissed allegations against one of three defendants accused of misinforming a woman about her risk of having a baby with Down syndrome.

Circuit Judge Diane O. Leasure eliminated nurse practitioner Johanna Martino as a defendant in the "wrongful birth" suit brought by Joyce Shull, 38, and her husband, Dan, whose son, Elliott, was born in 1993 with the genetic defect.

The trial, which began last week, continues for the two other defendants.

The Shulls, former Savage residents now living in Hagerstown, alleged that Dr. Swati M. Saraiya and Martino misinformed Joyce Shull about the high risk. Saraiya and Martino worked at the time for Woman to Woman Health Care in Columbia, also a defendant.

Mrs. Shull has said she loves her son but would have had an abortion had she known she was at high risk. The Shulls want their former medical team to pay the costs of raising Elliott and have asked for \$5 million in the suit.

Through a series of errors that the defense acknowledges, Shull initially was told that her tests were normal. Martino misread the tests at first. Three weeks later, she tried to rectify the situation by calling Shull and leaving a note for the doctor.

Defense attorneys say the defendants corrected the initial error and told Mrs. Shull of her high risk, but the Shulls dispute that.

"The evidence was undisputed that Johanna took the necessary steps," defense attorney Jodi Ebersole said yesterday of the nurse practitioner.

Mrs. Shull has said that, although doctors told her Elliott is "high-functioning," he is very slow in learning.

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