

Denver District Court Denver County, Colorado 1437 Bannock Street, Rm. 256 Denver, CO 80202	EFILED Document CO Denver County District Court 2nd JD Filing Date: Sep 17 2012 04:18PM MDT Filing ID: 4648685 Review Clerk: Matthew Palmer
Plaintiff: JENNIFER SILVERSTEIN v. Defendants: KAISER FOUNDATION HEALTH PLAN OF COLORADO, COLORADO PERMANENTE MEDICAL GROUP, P.C., JED OLSON, M.D., JAMES REGAN, M.D., ROBERT HAYS, M.D., KAREN KOGL, M.D., and STEPHEN ANNEST, M.D.	▲ COURT USE ONLY ▲
Attorneys for Plaintiff: Jim Leventhal, #5815 Molly L. Greenblatt, #36252 LEVENTHAL BROWN & PUGA, P.C. 950 S. Cherry Street, Suite 600 Denver, Colorado 80246 Phone Number: (303) 759-9945 FAX Number: (303) 759-9692 E-mail: jim@leventhal-law.com mgreenblatt@leventhal-law.com	Case Number: Courtroom:
COMPLAINT FOR DAMAGES AND JURY DEMAND	

Plaintiff, Jennifer Silverstein, by and through her attorneys, Leventhal, Brown & Puga, P.C., submits the following Complaint for Damages and Jury Demand:

CERTIFICATE OF REVIEW

Pursuant to C.R.S. § 13-20-602(3)(a), Counsel certifies as follows:

- a. Counsel have consulted with physicians and other licensed professionals with expertise in the areas of alleged negligent conduct as set forth in Plaintiff's Complaint;
- b. The physicians and other licensed professionals consulted reviewed all known facts relevant to the allegations of negligent conduct as complained of in Plaintiff's Complaint;
- c. Based upon review of such facts, the physicians and other licensed professionals concluded that the filing of the claims against the defendants does not lack substantial justification within the meaning of C.R.S. § 13-17-102(4); and

d. The physicians and other licensed professionals who reviewed all known facts relevant to the allegations of negligent conduct as contained in Plaintiff's Complaint meet the requirements set forth in C.R.S. § 13-64-401.

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff was, at all relevant times, a resident of the State of Colorado.
2. At all times relevant hereto, Defendant Kaiser Foundation Health Plan of Colorado ("KFHP") was a Colorado corporation doing business in Colorado.
3. At all times relevant hereto, Defendant Colorado Permanente Medical Group, P.C. ("CPMG") was a Colorado professional corporation formed for the purpose of practicing medicine.
4. Defendant Jed Olson, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Colorado, specializing in internal medicine, and employed by CPMG.
5. Defendant James Regan, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Colorado, specializing in internal medicine, and employed by CPMG.
6. Defendant Robert Hays, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Colorado, specializing in internal medicine and rheumatology, and employed by CPMG.
7. Defendant Karen Kogel, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Colorado, specializing in internal medicine and hematology, and employed by CPMG.
8. Defendant Stephen Annest, M.D. was, at all relevant times, a physician licensed to practice medicine in the State of Colorado, specializing in vascular surgery.
9. This Court has personal and subject matter jurisdiction over this action pursuant to C.R.S. § 13-1-124(1)(a), (b), and (c).
10. Venue is proper in the City and County of Denver pursuant to Rule 98(c) because Defendant Kaiser Foundation Health Plan resides in the City and County of Denver.

II. GENERAL ALLEGATIONS

11. Plaintiff incorporates by reference paragraphs 1 through 10 as if fully set forth herein.

12. KFHP administers the Kaiser Permanente Medical Care Program, pursuant to which enrolled members receive comprehensive, integrated medical care arranged for by KFHP and provided by KFHP employees or affiliated health care providers.

13. KFHP operates over twenty medical offices in the Denver metropolitan area at which its members receive primary medical care, specialty care, urgent care, radiology, laboratory and pharmacy services.

14. KFHP contracts with CPMG, an integrated group medical practice of physicians in primary care and specialty fields, to provide exclusive medical care to its members.

15. KFHP's medical offices are staffed by allied health providers such as nurses, physician's assistants, nurse practitioners, therapists, nurses, medical assistants, and pharmacists, all of whom are employed by KFHP.

16. By virtue of the integrated health services it provides, KFHP has the ability to ensure that its employees and affiliated physicians follow evidence-based guidelines in order to ensure the health of KFHP members.

17. KFHP has maintained an integrated electronic medical record ("EMR") system since 1998 which enables its health care providers, both its own employees and its affiliated CPMG physicians, to access the entirety of a patient/member's electronic medical history.

18. Beginning in 1996, KFHP, in collaboration with CPMG and laboratory, pharmacy, and nursing departments, expanded the Clinical Pharmacy Anticoagulation Service ("CPAS") to provide care and treatment for all anticoagulated KFHP member patients in the Denver-Boulder metropolitan area.

19. Each provider, including CPAS pharmacists, has a virtual EMR in-basket that serves as an open line of communication between a KFHP member patient's providers.

20. The computerized patient tracking systems of KFHP member patients allow efficient tracking of patients and patient care by KFHP, CPMG, and all of their patient care providers.

21. As of the date of the incident complained of herein, CPAS provided anticoagulation therapy monitoring services for over 7,000 KFHP member patients.

22. CPAS' scope of services for KFHP member patients includes anticoagulant medication monitoring and dose adjustment, anticoagulant drug interaction intervention and management, triaging of anticoagulation therapy-related adverse events, management of excessive anticoagulation, as well as other anticoagulation services.
23. CPAS does not have a medical director for the KFHP member patient anticoagulation service.
24. Due to collaboration between CPMG and KFHP, CPAS does not have a medical director for the anticoagulation services provided for its member patients.
25. Each CPMG physician refers his/her patients to CPAS under a collaborative drug therapy management agreement.
26. Most anticoagulation therapy issues are managed by CPAS pharmacists according to a general guideline developed collaboratively between CPAS and CPMG.
27. Issues falling outside of the parameters specified in the guideline developed collaboratively between CPAS and CPMG are resolved collaboratively directly with the CPMG referring physician.
28. Nearly 40% of CPAS patients were taking a combination of anticoagulation and antiplatelet medications at the time of the incidents complained of herein.
29. Combining Coumadin, Plavix, and aspirin results in more than a doubled increased risk for a major bleeding event, without associated benefit in lowering thromboembolic complications.
30. The hemorrhagic risk associated with Coumadin, Plavix, and aspirin therapy outweighs any benefits.
31. Only patients who meet evidence-based criteria for combination therapy with Coumadin, Plavix, and aspirin, should be considered for such therapy.
32. Patients placed on Coumadin, Plavix, and aspirin combination therapy require close monitoring for complications associated with the combined therapy.
33. Patients on combination therapy with Coumadin, Plavix, and aspirin are at a statistically significant increased risk of suffering anticoagulation-related hemorrhages.
34. There is no improvement in thromboembolic complications to counterbalance the increased risk of bleeding associated with combination therapy in patients who do not have known unstable coronary artery disease or a mechanical heart valve.

35. At all relevant times, Mrs. Silverstein was a member of KFHP, and received all of her medical care from the Defendants and those to whom she was referred by Defendants.

36. KFHP members, such as Mrs. Silverstein, do not have the same ability to access the entirety of their medical record electronically.

37. KFHP employees and affiliated physicians and other health care providers create the electronic record at the time they provide care.

38. KFHP employees and affiliated physicians have instantaneous access to a member's EMR.

39. Through a variety of tabs and links, providers can quickly access any part of a patient's EMR.

40. When KFHP employees and affiliated physicians and other health care providers attend to a patient, they should acquire the entire medical record in order to effectively evaluate and treat the patient.

41. Thus, each time Mrs. Silverstein was seen by a KFHP employee or affiliated physician or other health care provider, each such provider had instantaneous access to Mrs. Silverstein's entire EMR.

42. The EMR of the Defendants' patients, including Mrs. Silverstein, is an integrated electronic medical record that is reviewed and used by all of the KFHP medical providers to provide a continuum of care.

43. On September 10, 2009, Mrs. Silverstein was examined by Defendant Dr. Olson for radiating pain from her right shoulder down the arm, with forearm and hand pain into the thumb.

44. Defendant Dr. Olson examined Mrs. Silverstein, ordered blood work, and diagnosed muscle spasm and numbness of skin.

45. On September 11, 2009, Defendant Dr. Olson called Mrs. Silverstein and reported to her that her labs showed she was in excellent health, despite results of Hemoglobin 15.7 and a Platelet count of 502.

46. On December 10, 2009, Mrs. Silverstein was examined by Defendant Dr. Olson for burning and needle-sensation in her left fingers.

47. Defendant Dr. Olson examined Mrs. Silverstein, diagnosed Carpal Tunnel Syndrome, and prescribed Amitriptyline and splinting.

48. On or about December 13, 2009, Mrs. Silverstein went to Defendant KFHP's urgent care center with complaints of her left index and middle fingertips having turned blue upon awakening and then purple later in the day, as well as pain from behind the elbow to her hand. She was assessed as having Raynaud's Syndrome and Carpal Tunnel Syndrome. Blood work was drawn and she was told to follow up with Dr. Olson.

49. On December 14, 2009, Defendant Dr. Olson had his office staff inform Mrs. Silverstein that the labs done in urgent care were normal, despite results of Hemoglobin 17.2 and Platelet Count 508.

50. On December 16, 2009, Mrs. Silverstein was examined by Defendant Dr. Olson for continued problems with her wrist, hand, and fingers.

51. Defendant Dr. Olson examined Mrs. Silverstein, diagnosed Carpal Tunnel Syndrome and Raynaud's Disease, and recommended continuing splinting and also as a or nsaid therapy.

52. On January 15, 2010, Mrs. Silverstein contacted Defendant Dr. Olson's office to schedule an appointment to see Dr. Olson because her hand symptoms (pain and discoloration) persisted and Dr. Olson had informed her that after a month of Amitriptyline she should feel better and she did not.

53. On February 1, 2010, Mrs. Silverstein was examined by Defendant Dr. Olson for left arm, wrist, and hand pain that was getting worse with constant pain through the left hand up to the elbow and cold left fingertips.

54. Defendant Dr. Olson examined Mrs. Silverstein and referred her for neurological testing for severe left forearm and hand pain, numbness, and coolness. Dr. Olson did not address her blood pressure of 124/110.

55. Nerve conduction survey and EMG testing of Mrs. Silverstein's left upper extremity was performed on or about February 10, 2010, and it was normal.

56. On or about February 22, 2010, Mrs. Silverstein underwent upper extremity ultrasound for left upper arm swelling and discoloration and it was negative.

57. On March 1, 2010, Mrs. Silverstein was examined by Defendant Dr. Olson for continuing severe left hand discoloration, pain and swelling.

58. Defendant Dr. Olson examined Mrs. Silverstein and ordered an MRI stat as her pain had worsened over the preceding days and he was reportedly unconvinced that she had Raynaud's Disease.

59. On March 2, 2010, Mrs. Silverstein was examined by Defendant Dr. Robert Hays for evaluation of "Raynaud's."

60. Defendant Dr. Hays reviewed Mrs. Silverstein's medical history, records, radiology, and labs since 2009.

61. Defendant Dr. Hays stated that Mrs. Silverstein's labs were unremarkable, despite a Hemoglobin of 18.5 and Platelet Count of 616.

62. Defendant Dr. Hays noted Mrs. Silverstein had had progressive left arm and hand pain for 3 months, poor circulation in the left hand, discoloration of fingers, extreme sensitivity in left shoulder and arm, and hypertension.

63. On March 2, 2010, Mrs. Silverstein was examined by Defendant Dr. James Regan for high blood pressure report of 190/130 (180/120 in the office) and continued left arm discoloration, burning, and pain.

64. Defendant Dr. Regan examined Mrs. Silverstein, reviewed all of her lab results, diagnosed vascular and neurological Thoracic Outlet Syndrome, moderately severe to severe hypertension, started her on HCTZ (diuretic) and told her to follow up with Dr. Olson.

65. Defendant Dr. Regan did not feel her labs were compelling, despite a Hemoglobin of 18.5 and Platelet Count of 616.

66. Mrs. Silverstein underwent CT angiogram and was diagnosed with Thoracic Outlet Syndrome with 70% narrowing of the subclavian arteries bilaterally due to cervical rib.

67. Mrs. Silverstein was referred to vascular surgery for surgical intervention concerning the bilateral cervical ribs.

68. On March 31, 2010, Mrs. Silverstein underwent the following surgery at St. Joseph Hospital by Defendant Stephen Annest, M.D.: Transaxillary resection of left first and cervical rib; dissection of subclavian artery and vein; resection of anterior and middle scalene muscles; neurolysis of C8 and T1 nerves; LUE arteriogram; TPA infusion to left hand; endovascular covered stent of L subclavian aneurysm; exploration and thrombectomy of brachial artery at upper arm and antecubital fossa; exploration and thrombectomy of ulnar and radial arteries at wrist.

69. On April 1, 2010, Mrs. Silverstein underwent the following surgery at St. Joseph Hospital by Defendant Stephen Annest, M.D.: Thrombectomy of brachial artery with vein patch, thrombectomy of ulnar artery with interposition vein graft, arteriogram via brachial artery, harvest of R lesser saphenous vein, thrombectomy of axillary artery.

70. At discharge from St. Joseph Hospital, Mrs. Silverstein was referred to outpatient hematology for evaluation of future anticoagulation needs.

71. On or about April 30, 2010, Mrs. Silverstein was seen by Defendant Dr. Karen Kogel in referral by vascular surgery for evaluation of potential hypercoagulable state.

72. Defendant Dr. Kogel added aspirin to the Coumadin and Plavix taken by Mrs. Silverstein.

73. Defendant Dr. Kogel examined Mrs. Silverstein and reviewed Mrs. Silverstein's medical history, records, radiology, and labs since her arm complaints began in 2009.

74. Defendant Dr. Kogel did not feel that Mrs. Silverstein had an underlying clotting disorder.

75. Defendant Dr. Kogel felt that Mrs. Silverstein had a mechanical event, rather than an underlying clotting disorder.

76. Defendant Dr. Kogel, as Mrs. Silverstein's treating hematologist, planned to keep her on Coumadin, Plavix, and aspirin, for a year.

77. Defendant Drs. Kogel and Annest discussed Mrs. Silverstein's medical condition and the plan to have Mrs. Silverstein on Coumadin, Plavix, and aspirin for a year.

78. Defendant Dr. Annest did not feel that Mrs. Silverstein had an underlying clotting disorder, but rather a mechanical issue.

79. Defendant Dr. Annest planned for Mrs. Silverstein to be on Coumadin, Plavix, and aspirin for a year.

80. Defendant Dr. Annest felt that mechanical issues, including aneurysm and thoracic outlet obstruction, could have been the precipitating event that resulted in Mrs. Silverstein's clotting.

81. Mrs. Silverstein was a patient of Defendants' CPAS throughout the time she was on anticoagulation therapy.

82. Defendant Dr. Olson continued Mrs. Silverstein's anticoagulation medications following her hospitalizations in March and April, 2010.

83. Defendant Dr. Kogel was Mrs. Silverstein's treating hematologist during the time that Mrs. Silverstein was on anticoagulation medications at all times relevant herein.

84. Defendant Dr. Annest was Mrs. Silverstein's treating vascular surgeon during the time that Mrs. Silverstein was on anticoagulation medications at all times relevant herein.

85. On July 22, 2010, Mrs. Silverstein called Dr. Kogel's nurse to ask why she was bruising so easily and developing hematomas on her arms and legs when she would bump into something and Dr. Kogel's nurse explained that the anticoagulation medications increased the time for platelets to clump and stop bleeding.

86. On September 8, 2010, Mrs. Silverstein called Dr. Kogel's office to report that she had been getting "HUGE" bruises lately with one on her pubic bone she thought was caused by her jeans, one on her head from wearing a headband, "hard and painful and huge" leg bruise on her right thigh, a "3-4" round with hard raised center" right calf bruise, with no memory of having injured or hit these places, as well as nose bleeds.

87. Defendant Dr. Kogel ordered a stat CBC, compressive, PT, PTT, and INR, with a recommendation that Mrs. Silverstein be seen by Dr. Olson for evaluation.

88. On September 9, 2010, Defendant Dr. Olson reported that such bruising was normal for patients with that degree of anticoagulation and was very unlikely pathological, saying that he would follow up with Mrs. Silverstein concerning the lab results, but that her symptoms would likely continue until they could decrease her anticoagulation.

89. On or about September 9, 2010, Mrs. Silverstein was informed that her symptoms and labs were normal and that she did not need to seek medical care or treatment related to her symptoms.

90. On or about September 17, 2010, Mrs. Silverstein awoke to find that she could not move her left arm or leg and was taken to the emergency room at St. Joseph Hospital, where she was seen for altered mental status and left-sided weakness.

91. Mrs. Silverstein underwent CT imaging, which demonstrated a large right anterior frontal/periventricular parenchymal hemorrhage with intraventricular extension, surrounding edema and mass effect on the right lateral ventricle, with midline shift to the left anteriorly.

92. On September 17, 2010, Mrs. Silverstein underwent a right frontal craniotomy for hematoma evacuation.

93. As a result of the bleed on or about September 17, 2010, Mrs. Silverstein suffered severe neurological injury including, but not limited to, severe and permanent brain injury and hemiplegia.

94. Mrs. Silverstein has been diagnosed with Polycythemia Vera, a chronic myeloproliferative blood disorder.

III. FIRST CLAIM FOR RELIEF
(Medical Negligence – Defendant Jed Olson, M.D.)

95. Plaintiff incorporates by reference paragraphs 1 through 94 as if fully set forth herein.

96. Plaintiff was under the care and treatment of Defendant Jed Olson, M.D. in 2009 and 2010.

97. With respect to his care and treatment of Plaintiff, Defendant Dr. Olson owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

98. Defendant Dr. Olson deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

- a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Jennifer Silverstein;
- b. Failing to properly, timely and adequately diagnose and treat Jennifer Silverstein's medical condition;
- c. Failing to timely and properly refer Jennifer Silverstein to appropriate medical providers so they could timely, adequately, and properly diagnose Jennifer Silverstein's medical condition;
- d. Failing to consult with appropriate medical providers concerning Jennifer Silverstein's condition;
- e. Failing to timely and appropriately review Jennifer Silverstein's laboratory studies in order to timely diagnose and treat Jennifer Silverstein's medical condition;
- f. Failing to timely and appropriately coordinate and facilitate Jennifer Silverstein's consultation with hematology and other specialists to obtain timely diagnosis and treatment of her blood disorder;
- g. Failing to timely and appropriately evaluate Jennifer Silverstein's medical condition and complaints;
- h. Failing to timely and appropriately obtain and evaluate Jennifer Silverstein's medical history, laboratory studies, and risk factors for a blood disorder;

- i. Failing to conduct an appropriate review of Jennifer Silverstein's laboratory studies;
- j. Failing to recognize Jennifer Silverstein's abnormal laboratory results necessitating patient referral to a specialist for evaluation and treatment;
- k. Failing to recognize Jennifer Silverstein's signs and symptoms consistent with a blood disorder;
- l. Failing to timely and appropriately diagnose and treat Jennifer Silverstein's signs and symptoms of anticoagulation-related medical complications.

99. As a direct and proximate result of Defendant Dr. Olson's negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant permanent brain injury and dysfunction, permanent physical and cognitive impairment and disfigurement, seizures, emotional distress, mental anguish, physical suffering and impairment of quality of life. Her injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries she has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the future, for medicine, doctors' fees, prescriptions, hospital care, x-rays, physical therapy, medical procedures, rehabilitation, home services, home adaptation, equipment, and assistance. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life. Plaintiff has suffered a loss of past earnings and future earning capacity.

IV. SECOND CLAIM FOR RELIEF (Medical Negligence - Defendant James Regan, M.D.)

100. Plaintiff incorporates by reference paragraphs 1 through 99 as if fully set forth herein.

101. Plaintiff was under the care and treatment of Defendant James Regan, M.D. in 2010.

102. With respect to his care and treatment of Plaintiff, Defendant Dr. Regan owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

103. Defendant Dr. Regan deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

- a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Jennifer Silverstein;
- b. Failing to properly, timely and adequately diagnose and treat Jennifer Silverstein's medical condition;

- c. Failing to timely and properly refer Jennifer Silverstein to appropriate medical providers so they could timely, adequately, and properly diagnose Jennifer Silverstein's medical condition;
- d. Failing to consult with appropriate medical providers concerning Jennifer Silverstein's condition;
- e. Failing to timely and appropriately review Jennifer Silverstein's laboratory studies in order to timely diagnose and treat Jennifer Silverstein's medical condition;
- f. Failing to timely and appropriately coordinate and facilitate Jennifer Silverstein's consultation with hematology and other specialists to obtain timely diagnosis and treatment of her blood disorder;
- g. Failing to timely and appropriately evaluate Jennifer Silverstein's medical condition and complaints;
- h. Failing to timely and appropriately obtain and evaluate Jennifer Silverstein's medical history, laboratory studies, and risk factors for a blood disorder;
- i. Failing to conduct an appropriate review of Jennifer Silverstein's laboratory studies;
- j. Failing to recognize Jennifer Silverstein's abnormal laboratory results necessitating patient referral to a specialist for evaluation and treatment;
- k. Failing to recognize Jennifer Silverstein's signs and symptoms consistent with a blood disorder;
- l. Providing inappropriate medication for Jennifer Silverstein's medical condition.

104. As a direct and proximate result of Defendant Dr. Regan's negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant permanent brain injury and dysfunction, permanent physical and cognitive impairment and disfigurement, seizures, emotional distress, mental anguish, physical suffering and impairment of quality of life. Her injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries she has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the future, for medicine, doctors' fees, prescriptions, hospital care, x-rays, physical therapy, medical procedures, rehabilitation, home services, home adaptation, equipment, and assistance. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life. Plaintiff has suffered a loss of past earnings and future earning capacity.

V. THIRD CLAIM FOR RELIEF
(Medical Negligence – Defendant Robert Hays, M.D.)

105. Plaintiff incorporates by reference paragraphs 1 through 104 as if fully set forth herein.

106. Plaintiff was under the care and treatment of Defendant Robert Hays, M.D. in 2010.

107. With respect to his care and treatment of Plaintiff, Defendant Dr. Hays owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

108. Defendant Dr. Hays deviated from the standard of care required and was negligent in his care and treatment of Plaintiff including, but not limited to, the following:

- a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Jennifer Silverstein;
- b. Failing to properly, timely and adequately diagnose and treat Jennifer Silverstein's medical condition;
- c. Failing to timely and properly refer Jennifer Silverstein to appropriate medical providers so they could timely, adequately, and properly diagnose Jennifer Silverstein's medical condition;
- d. Failing to consult with appropriate medical providers concerning Jennifer Silverstein's condition;
- e. Failing to timely and appropriately review Jennifer Silverstein's laboratory studies in order to timely diagnose and treat Jennifer Silverstein's medical condition;
- f. Failing to timely and appropriately coordinate and facilitate Jennifer Silverstein's consultation with hematology and other specialists to obtain timely diagnosis and treatment of her blood disorder;
- g. Failing to timely and appropriately evaluate Jennifer Silverstein's medical condition and complaints;
- h. Failing to timely and appropriately obtain and evaluate Jennifer Silverstein's medical history, laboratory studies, and risk factors for a blood disorder;
- i. Failing to conduct an appropriate review of Jennifer Silverstein's laboratory studies;

- j. Failing to recognize Jennifer Silverstein's abnormal laboratory results necessitating patient referral to a specialist for evaluation and treatment;
- k. Failing to recognize Jennifer Silverstein's signs and symptoms consistent with a blood disorder.

109. As a direct and proximate result of Defendant Dr. Hays' negligence, Plaintiff has suffered injuries, damages and losses, including, but not limited to, significant permanent brain injury and dysfunction, permanent physical and cognitive impairment and disfigurement, seizures, emotional distress, mental anguish, physical suffering and impairment of quality of life. Her injuries have been and will continue to be disabling, incapacitating and humiliating. The injuries she has suffered are permanent. Plaintiff has been forced to spend monies, and will spend monies in the future, for medicine, doctors' fees, prescriptions, hospital care, x-rays, physical therapy, medical procedures, rehabilitation, home services, home adaptation, equipment, and assistance. Plaintiff has suffered a permanent loss of ability to enjoy a full, useful and normal life. Plaintiff has suffered a loss of past earnings and future earning capacity.

VI. FOURTH CLAIM FOR RELIEF
(Medical Negligence – Defendant Karen Kogel, M.D.)

110. Plaintiff incorporates by reference paragraphs 1 through 109 as if fully set forth herein.

111. Plaintiff was under the care and treatment of Defendant Karen Kogel, M.D. in 2010.

112. With respect to her care and treatment of Plaintiff, Defendant Dr. Kogel owed Plaintiff a duty to exercise that degree of care, skill, caution, diligence, and foresight exercised and expected of physicians in similar situations.

113. Defendant Dr. Kogel deviated from the standard of care required and was negligent in her care and treatment of Plaintiff including, but not limited to, the following:

- a. Failing to properly treat, evaluate, diagnose, monitor, and follow the care and treatment of Jennifer Silverstein;
- b. Failing to properly, timely and adequately diagnose and treat Jennifer Silverstein's medical condition;