

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

SHELLIE A. MAYRANT,  
INDIVIDUALLY AND AS PERSONAL  
REPRESENTATIVE OF THE ESTATE OF  
VIVIEN AYRANT

7301 Circle Drive East  
Oxon Hill, Md. 20745

Plaintiff

v.

KAISER FOUNDATION HEALTH PLAN OF  
THE MID-ATLANTIC STATES, INC.

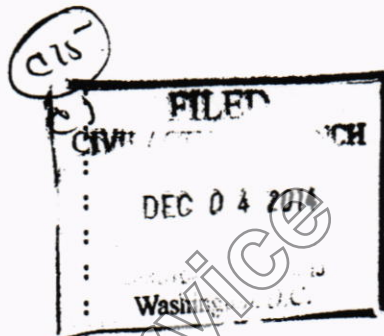
Registered Agent: CT Corporation Systems  
1015 15<sup>th</sup> Street NW  
Suite 1000  
Washington, DC 20005

and

MEDSTAR WASHINGTON HOSPITAL CENTER

Registered Agent: Corporation Service Company  
1090 Vermont Avenue NW  
Washington, DC 20005

Defendants



14-0007710  
Civil Action No.

COMPLAINT

JURISDICTION



1. Jurisdiction of this Court over Defendants Kaiser Foundation Health Plan Of The Mid-Atlantic States, Inc. and Medstar Washington Hospital Center is invoked pursuant to D.C. Code §§ 11-921 and 13-422 *et seq.*

### **PARTIES**

2. Vivien Mayrant was born on September 6, 1955. She died on June 21, 2013 in the State of Maryland. At the time of her death she was a resident of the State of Maryland.

3. Shellie A. Mayrant born on April 1, 1954 is a resident of the State of Maryland. He is the Personal Representative of the Estate of Vivien Mayrant. He was married to her and lived with her at the time of her death. He is employed by the US Postal Service as an Electronic Technician.

4. Vivien Mayrant is survived by her four children. Shellise Graham born August 18, 1974. Shellie Antonio Mayrant II born February 26, 1978. Sheldon Mayrant born January 4, 1982. Sheldrick Mayrant born February 9, 1990.

5. Defendant Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. (Kaiser) is a corporation that was actively engaging in business in the District of Columbia at the time the cause of action arose.

6. Defendant Medstar Washington Hospital Center (Medstar) is a corporation doing business as the Washington Hospital Center and was actively engaging in business in the District of Columbia at the time the cause of action arose.

### **FACTS**

7. Vivien Mayrant was born on September 6, 1955. She died on June 21, 2013. She married Shellie Mayrant in 1974. Four children were born in their marriage.

8. In 1973, she graduated from Cardozo High School in Washington, D.C. For many years she ran a day care center. She began working in the school system as a school bus driver for the D.C. Public Schools and the Prince George's County Public Schools. She became the school secretary at Owens Road Elementary and Samuel P. Massie Elementary Schools in PG County where she worked until the time of her death.

9. In 2013 Kaiser was the primary health care provider to Ms. Mayrant and had been for several years.

10. On October 9, 2012, Kaiser diagnosed Vivien Mayrant with hypertension and hyperlipidemia. Her random Glucose level had recently been tested at 194.

11. On June 13, 2013, Ms. Mayrant telephoned Kaiser with complaints of white vaginal discharge with itching. Treatment per protocol was ordered by Dr. Holloway

12. On June 19, 2013, at 7:46 am, a registered nurse employed by Kaiser received a call from Vivien Mayrant at which time Ms. Mayrant complained of dizziness, faint and palpitations. Ms. Mayrant was scheduled to see Dr. Nguyen at 9:50 am in Camp Springs Md.

13. On June 19, 2013, Vivian Mayrant presented to Kaiser. A history was provided by Ms. Mayrant and her husband. The history included mental status changes, drowsiness, dizziness, generalized weakness, increased thirst, and vaginal discharge. An examination was performed by Dr. Thu B Nguyen. Laboratory testing was performed and her serum glucose level was 1332, ketones were present, Co2 was low, and BUN and sodium were increased. Dr. Nguyen's assessment was new onset diabetes, serum glucose 1330, small serum ketones, high AG, and low CO2. Dr. Nguyen ordered IV fluids, regular insulin 20 units IV push and repeat labs. No further labs were performed. Dr. Nguyen spoke with Dr. Shamim a neurologist who believed Ms. Mayrant's symptoms were most likely from significant hyperglycemia. Dr. Nguyen



also spoke with Dr. Murthy an endocrinologist who recommended admission to Washington Hospital Center.

14. Kaiser instructed Vivien Mayrant "...to go directly to the Washington Hospital Center Emergency Room with papers".

15. Ms. Mayrant presented to Washington Hospital Center Emergency Room on June 19, 2013 as directed by Kaiser. Her chief complaints were polydipsia and polyuria.. A chest x-ray was done because of the pain. The impression was mild pulmonary venous congestion and cardiomegaly . A CT of the head was done with no acute process found. An EKG was performed and was read as abnormal. Laboratory tests were repeated and remained significantly abnormal. IV fluids were begun and an insulin drip was started. Dr. Chang, a WHC ER physician, discharged Ms. Mayrant to a medical surgical floor under Kaiser's care.

16. At approximately 11:20 pm on June 19, 2013 Ms. Mayrant was admitted to 3C a medical surgical floor at WHC. A history and physical were performed and reviewed by her attending physician. Her weight was recorded as 83.8 kg. Her admitting diagnosis was hyperglycemia. IV fluids were ordered at 125cc per hour. Insulin infusion orders were written.

17. On June 20, 2013, Kaiser diagnosed her with Diabetes Type 2 with Hyperosmolarity Hypertension and Diabetes with Ketoacidosis (HONK) Dr. Kadakkal confirmed the diagnosis. .

18. On June 20, 2013 at 18:00 Dr. Kadakkal stopped the insulin drip. The medical record notes that "Patient exhibits no signs of hypo-hyperglycemia at this time." Ms. Mayrant was switched from IV insulin to SQ insulin. Ms. Mayrant's glucose levels improved but remained elevated throughout her hospitalization including at discharge. Lovenox was prescribed. Ms. Mayrant received 2 sessions of diabetes education.

19. On June 21, 2013 at 18:25 orders were written for IV, Lovenox, and Cipro, DC'D and discharge tonight. Ms. Mayrant's last glucose level by glucometer was 307 at 17:10 approximately 2 hours prior to discharge.

20. Ms. Mayrant was discharged from Washington Hospital Center on June 21, 2013 at 9:00 pm. She had remained in the bed throughout most of the time of the admission. She left the floor in a wheelchair.

21. On June 21, 2013, at approximately 21:40 Ms. Mayrant arrived home with her husband. She collapsed unconscious while walking to the front door of her home. She recovered consciousness, was in distress with difficulty breathing. The fire department had responded and spoke with Ms. Mayrant. She later lost consciousness again after the ambulance arrived. During transport to Fort Washington Medical Center CPR was begun.

22. On admission to Fort Washington Hospital Emergency Department at approximately 22:30 Ms. Mayrant was in cardiac arrest with CPR in progress. Resuscitation efforts continued until 22:45 when Ms. Mayrant was pronounced deceased by Dr. Dixon.

23. An autopsy was performed on June 24, 2013 by Dr. William Green determined the cause of death was pulmonary thromboemboli, bilateral.

#### **COUNT 1—Medical Negligence**

24. Plaintiff incorporates by reference all other allegations made in this Complaint and further alleges that consistent with the Medical Malpractice Proceedings Act of 2006 Section 16-2802, Plaintiff provided notice on June 30, 2014 to Defendant Kaiser of his intention to file a

medical malpractice lawsuit. The 90-day period for the filing of the lawsuit per Section 16-2802(a) has expired.

25. Plaintiff incorporates by reference all other allegations made in this Complaint and further alleges that consistent with the Medical Malpractice Proceedings Act of 2006 Section 16-2802, Plaintiff provided notice on June 30, 2014 to Defendant Medstar of his intention to file a medical malpractice lawsuit. The 90-day period for the filing of the lawsuit per Section 16-2802(a) has expired.

26. Upon information and belief, the healthcare providers that provided care to Plaintiff between January 1, 2010 and June 21, 2013 including nurses, physicians, house staff, and any providers were agents, servants, and/or employees of Defendant Kaiser.

27. Upon information and belief, the healthcare providers that provided care to Plaintiff between June 19, 2013 and June 21, 2013 including nurses, physicians, house staff, and any providers were agents, servants, and/or employees of Defendant Medstar.

28. Plaintiff further alleges that a physician-patient relationship existed between decedent and the employees, servants, and/or agents of Defendant Kaiser.

29. Plaintiff further alleges that a physician-patient relationship existed between decedent and the employees, servants, and/or agents of Defendant Medstar.

30. There is a National Standard of Care for the medical treatment for symptoms, signs, and conditions similar to decedent. Said standard of care includes, but is not limited to, the duty to assess, diagnose, and treat the patient's clinical condition in a timely and appropriate manner. These health-care providers breached said standard of care by acts and omissions including the failure to properly assess, diagnose, and treat Plaintiff in a reasonable and timely manner in order to prevent injury to plaintiff.



31. Defendant Kaiser by and through their employees and/or agents breached the applicable standard of care by failing to timely and appropriately assess, diagnose and treat Plaintiffs' decedent, including, but not limited to:

1. Failure to respond repeated elevated blood glucose levels prior to June 19, 2013 and inappropriately treating her glucose levels.
2. Failure to refer decedent on June 19, 2013 at 7:46 am for an emergency hospital evaluation given her medical history and her complaints.
3. Failure to promptly assess, diagnosis, and aggressively treat Ms. Mayrant on June 19, 2013 at the Kaiser facility given her significant symptoms and abnormal laboratory findings.
4. Failure to emergently transfer Ms. Mayrant to the hospital for intensive care and treatment.
5. Failure to timely consult with appropriate specialists including, but not limited to, radiology, infectious disease, endocrinology, intensivist, and others to treat Ketoacidosis a serious and life threatening condition.
6. Failure to take all reasonable measures, including admission to intensive care to stabilize a potentially fatal medical condition.
7. Failure to provide all reasonable care and management during hospitalization to prevent injury and death, including but not limited, to aggressive fluid resuscitation, treating HONK, glucose control, appropriate anticoagulation therapy and all other necessary treatment.

8. Failure to have Vivien Mayrant remain in the hospital for monitoring and treatment when her glucose level and other conditions placed Ms. Mayrant at risk for discharge.
  9. Failing to inform decedent Mayrant of her medical condition, and the material risks of proposed treatment, including discharge from the hospital, and the alternatives to the proposed treatment.
  10. Failure to recognize DVT and or pulmonary embolism.
  11. Incorrectly prescribing medication to prevent DVT and or treat pulmonary embolism.
  12. Failing to recognize the medical condition of hyperosmolar non-ketosis state or HONK which placed Vivien Mayrant at risk for venous thromboembolism or pulmonary embolism.
  13. Failing to perform a discharge evaluation to determine any abnormalities and the appropriateness and readiness for discharge.
32. Defendant Medstar by and through their employees and/or agents breached the applicable standard of care by failing to timely and appropriately assess, diagnose and treat Plaintiffs' decedent, including, but not limited to:
1. Failure to identify Mrs. Mayrant as a high risk patient requiring intensive care, given her presentation and abnormal diagnostic findings.
  2. Failure to monitor and appropriately treat significantly elevated blood glucose level.
  3. Failure to consider Ms. Mayrant at risk for DVT and or pulmonary embolism given her medical history, significantly elevated blood glucose level.



4. Failure to follow Washington Hospital Center protocol on insulin and glucose monitoring.
5. Failure to take all reasonable measures given the severity of illness, to stabilize Ms. Mayrant and not discharge her to home with significant unstable medical concerns.
6. Failure to provide all reasonable care and management during hospitalization to prevent injury and her death.
7. Failing to inform decedent Mayrant of her medical condition, and the material risks of proposed treatment, including discharge from the hospital, and the alternatives to the proposed treatment.
8. Failure to communicate to physicians the nature and extent of elevated glucose levels, including but not limited to those levels on the day of discharge.
9. Failing to recognize the medical condition of hyperosmolar non-ketosis state or HONK which placed Vivien Mayrant at great risk for a DVT and or pulmonary embolism.

33. As a direct and proximate result of the Defendants' failures and breaches of the national standard of care Vivien Mayrant died.

34. She suffered significant physical pain and suffering prior to her death of June 21, 2013. Vivien Mayrant incurred significant medical expenses and burial expenses. Her estate claims future and past lost wages from her job with the Prince George's County School system.

35. Vivien Mayrant's husband of forty years, as well as her four children, claim Wrongful Death damages and Survival Action damages pursuant to the laws of the State of

Maryland. Maryland was the state of her domicile, place of injury and place death, as well as the residence of all the beneficiaries of the Wrongful Death claims and Survival claims.

36. Shellie Mayrant as Personal Representative of the Estate claims reasonable medical expenses, loss of earnings from time of injury to time of death, funeral expenses, and financial consideration for conscious pain, suffering or mental anguish of the decedent between injury and the time of her death.

37. Shellie Mayrant (d.o.b.: 4/1/1954) spouse of decedent claims loss of financial support as well as the replacement value of the services that deceased furnished; plus, financial consideration for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, marital care, attention, advice or counsel that he has experienced or will experience in the future.

38. The four children of Vivien Mayrant claim losses of financial support as well as replacement value of the services that Vivien Mayrant furnished or probably would have been expected to furnish. The children also claim financial consideration for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, parental care, attention, advice, counsel, training, guidance or education which each child has experienced or probably will experience in the future.

39. Sheldrick Mayrant (d.o.b.: 2/09/1990) regarded his mother as a role model who was an excellent example of the benefits of hard work. He lived at home with her. Vivien paid for his books, tuition for college, and food for the house. . They spent time together almost every weekend. He now babysits for his nieces and nephews which his mother did when she was alive.

40. Shellise Graham (d.o.b.: 8/18/1974) has four female children for whom Vivien provided child care. She also provided marital and child rearing advice to Shellise. Vivien

occasionally provided financial assistance paying household bills, school supplies and buying food for Shellise's household. The emotional stress of death to her mother did cause Shellise to receive counseling and the stress of death aggravated her Parkinson's disease.

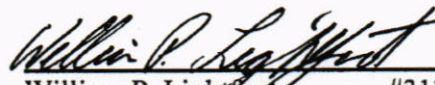
41. Shellie Mayrant II (d.o.b.: 2/26/1978) received child rearing advice and personal relationship advice from his mother. He talked to her almost everyday and they watched sports together. For example they went to basketball games together. Vivien frequently provided child care services for his children. Also, she helped pay bills as needed due to financial strain during times of unemployment.

42. Sheldon Mayrant (d.o.b.: 1/4/1982) regarded his mother as his main advisor and counselor regarding all aspects of life that he struggles with as a result of a brain injury. He spoke to her everyday. She kept him on schedule to pay his bills. She was the only person he trusted to care for his child. He started attending counseling sessions for the emotional distress of her death. After her death he fell behind in his bills and his auto insurance lapsed.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, in the full and just amount of Three Million Dollars (\$4,000,000.00) plus interest and costs.

Respectfully submitted,

KOONZ, MCKENNEY, JOHNSON,  
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