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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Dennis Kravetz,

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No. CV-08-1060-PHX-FJM

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Plaintiff,

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ORDER

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vs.

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Paul Revere Life Insurance Company, et
al.

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Defendants.

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The court has before it defendants' motion to compel production of computer hard drives and computer storage media and statement of consultation (docs. 63 & 64), plaintiff's response and motion for protective order (doc. 69), and defendants' reply in support of the motion to compel and in response to motion for protective order (doc. 71). We also have before us plaintiff's motion to withdraw previously filed opposition to defendants' motion to compel and motion for protective order (doc. 75), plaintiff's amended response to defendants' motion to compel (doc. 82), motion for protective order (doc. 77), declarations in support of plaintiff's motion for protective order (docs. 79, 80 & 81), and defendants' response (doc. 85). The court also has before it non-party Kahn's motion to for substitution of counsel (doc. 74).

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Plaintiff moves to withdraw his originally filed response and motion for protective order because it exceeded the page limit allowable in our September 12, 2008 order. To avoid any more unnecessary filings or dely, we will grant plaintiff's motion to withdraw

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1 (doc. 69) and consider his amended response and separate protective order (docs. 82 & 77).
2 To the extent plaintiff's amended filings contain new arguments and factual assertions, they
3 will not be considered. Also, we will deem defendants' reply and response to plaintiff's
4 motion for protective order (doc. 71) responsive to plaintiff's newly filed motion.

5 Defendants move to compel production of: (1) the hard drive from plaintiff's desktop
6 computer; (2) the hard drive from any other computer plaintiff used for business from March
7 23, 2005 until the present; and (3) all computer storage media plaintiff used for business from
8 March 23, 2005 until the present. Defendants propose to provide the hard drives and media
9 to a third party consultant to determine the number of hours plaintiff spent typing on a typical
10 day, which is relevant to his disability claim. Plaintiff claims that defendants would be
11 unable to discern the number of hours he spent typing from information on his hard drives,
12 and has submitted the declaration of a purported expert in electronic discovery issues to
13 support this claim. Plaintiff also argues that the request is overly broad and unduly
14 burdensome.

15 "Parties may obtain discovery regarding any non-privileged matter that is relevant to
16 any party's claim or defense." Fed. R. Civ. P. 26(b)(1). Rule 34(a)(1)(A), Fed. R. Civ. P.,
17 allows a party to inspect, copy, test, or sample "any designated documents or electronically
18 stored information." Defendants have properly explained why the metadata on Kravetz's
19 hard drives and storage devices may be relevant to the number of hours Kravetz worked prior
20 to and after his injury. However, defendants need not and may not review the substance of
21 documents on plaintiff's hard drives and media devices.

22 We will, therefore, compel plaintiff to provide the requested computer devices with
23 the limitation that defendants may only extract metadata and other necessary electronic
24 information regarding the amount of time spent on documents, but not the substance of the
25 documents themselves. To the extent plaintiff challenges the ability of metadata to show the
26 number of hours he worked, he is free to argue the weight that should be given to this
27 information at trial.

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