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40 North Central Avenue
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Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Karen Glaser Kravitz,

Plaintiff,

vs.

Metropolitan Life Insurance Company,

Defendant.

No. CV08-02033-PHX-SRB
**NOTICE OF INTENT TO ISSUE
SUBPOENA**

Pursuant to Fed. R. Civ. P. 45, defendant gives notice that it intends to issue the attached Subpoena Duces Tecum.

DATED this 7th day of July, 2009.

LEWIS AND ROCA LLP

By /s/David P. Krupski
Stephen M. Bressler
David P. Krupski
Attorneys for Defendant

CERTIFICATE OF SERVICE

I certify that on July 7, 2009, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Scott E. Davis
Scott E. Davis, P.C.
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Attorneys for Plaintiff

/s/Sandra Santiago
An Employee of Lewis and Roca LLP

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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Karen Glaser Kravitz,

Plaintiff,

vs.

Metropolitan Life Insurance Company,

Defendant.

US District Court of Arizona ,
Case No. CV08-02033-PHX-SRB
SUBPOENA DUCES TECUM
(Personal appearance not required)

To: Alam Holmes, M.D.

You have been subpoenaed by the attorneys for defendant whose name, address and telephone number are David Krupski; Lewis and Roca, LLP; 40 North Central Avenue; Phoenix, Arizona 85004; (602) 262-5788. Pursuant to Rule 45, Federal Rules of Civil Procedure, YOU ARE COMMANDED to produce the following documents and electronically stored information in your possession, custody, or control within 14 days of your receipt of this subpoena:

Your entire file, including all medical and billing records, regarding Karen Glaser Kravitz. This request encompasses all documents, electronically stored information-writings, drawings, graphs, charts, photographs, sound recordings, images, financial records, financial statements, communications, and other data or data compilations-stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonable usable form.

Your duties in responding to this subpoena and right to object are set forth in the attached Exhibit A. YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO

1 OBEY THIS SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED A
2 CONTEMPT OF COURT.

3 DATED this _____ day of July, 2009.

4 LEWIS ANDROCA LLP

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7 By _____
8 Stephen M. Bressler
9 David P. Krupski
10 Attorneys for Defendant
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EXHIBIT A

Rules of Civil Procedure 45(c) and (d):

(c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions.

A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

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1 (3) Quashing or Modifying a Subpoena.

2 (A) When Required. On timely motion, the issuing court must quash or modify a
3 subpoena that:

4 (i) fails to allow a reasonable time to comply;

5 (ii) requires a person who is neither a party nor a party's officer to travel more than
6 100 miles from where that person resides, is employed, or regularly transacts business in
7 person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to
8 attend a trial by traveling from any such place within the state where the trial is held;

9 (iii) requires disclosure of privileged or other protected matter, if no exception or
10 waiver applies; or

11 (iv) subjects a person to undue burden.

12 (B) When Permitted. To protect a person subject to or affected by a subpoena, the
13 issuing court may, on motion, quash or modify the subpoena if it requires:

14 (i) disclosing a trade secret or other confidential research, development, or
15 commercial information;

16 (ii) disclosing an unretained expert's opinion or information that does not describe
17 specific occurrences in dispute and results from the expert's study that was not requested
18 by a party; or

19 (iii) a person who is neither a party nor a party's officer to incur substantial
20 expense to travel more than 100 miles to attend trial.

21 (C) Specifying Conditions as an Alternative. In the circumstances described in
22 Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order
23 appearance or production under specified conditions if the serving party:

24 (i) shows a substantial need for the testimony or material that cannot be otherwise
25 met without undue hardship; and

26 (ii) ensures that the subpoenaed person will be reasonably compensated.

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1 **(d) Duties in Responding to Subpoena.**

2 (1) Producing Documents or Electronically Stored Information.

3 These procedures apply to producing documents or electronically stored
4 information:

5 (A) Documents. A person responding to a subpoena to produce documents must
6 produce them as they are kept in the ordinary course of business or must organize and
7 label them to correspond to the categories in the demand.

8 (B) Form for Producing Electronically Stored Information Not Specified. If a
9 subpoena does not specify a form for producing electronically stored information, the
10 person responding must produce it in a form or forms in which it is ordinarily maintained
11 or in a reasonably usable form or forms.

12 (C) Electronically Stored Information Produced in Only One Form. The person
13 responding need not produce the same electronically stored information in more than one
14 form.

15 (D) Inaccessible Electronically Stored Information. The person responding need
16 not provide discovery of electronically stored information from sources that the person
17 identifies as not reasonably accessible because of undue burden or cost. On motion to
18 compel discovery or for a protective order, the person responding must show that the
19 information is not reasonably accessible because of undue burden or cost. If that showing
20 is made, the court may nonetheless order discovery from such sources if the requesting
21 party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may
22 specify conditions for the discovery.

23 (2) Claiming Privilege or Protection.

24 (A) Information Withheld. A person withholding subpoenaed information under a
25 claim that it is privileged or subject to protection as trial-preparation material must:

26 (i) expressly make the claim; and
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1 (ii) describe the nature of the withheld documents, communications, or tangible
2 things in a manner that, without revealing information itself privileged or protected, will
3 enable the parties to assess the claim.

4 (B) Information Produced. If information produced in response to a subpoena is
5 subject to a claim of privilege or of protection as trial-preparation material, the person
6 making the claim may notify any party that received the information of the claim and the
7 basis for it. After being notified, a party must promptly return, sequester, or destroy the
8 specified information and any copies it has; must not use or disclose the information until
9 the claim is resolved; must take reasonable steps to retrieve the information if the party
10 disclosed it before being notified; and may promptly present the information to the court
11 under seal for a determination of the claim. The person who produced the information
12 must preserve the information until the claim is resolved.

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