

Kevin M. Zietz, Esq. (SBN 186244)  
E-mail: [kevin@zietzlaw.com](mailto:kevin@zietzlaw.com)  
LAW OFFICES OF KEVIN M. ZIETZ, PC  
16055 Ventura Boulevard, Suite 432  
Encino, California 91436  
Tel: (818) 981-9200  
Fax: (818) 981-9201

Attorneys for Plaintiff,  
CHRISTINE YEIGH

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CHRISTINE YEIGH,  
Plaintiff,

v.

METROPOLITAN LIFE  
INSURANCE COMPANY;  
KAISER FOUNDATION HEALTH  
PLAN, INC. LONG TERM  
DISABILITY PLAN, and DOES 1  
to 10, Inclusive,

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES  
UNDER THE EMPLOYEE  
RETIREMENT INCOME SECURITY  
ACT**

**[29 U.S.C. §1132(a)(1)]**

Plaintiff, CHRISTINE YEIGH (hereinafter referred to as "Plaintiff"), complains of Defendants METROPOLITAN LIFE INSURANCE COMPANY (hereinafter referred to as "MetLife"), and KAISER FOUNDATION HEALTH PLAN INC., LONG TERM DISABILITY PLAN (hereinafter referred to as the "PLAN"), as follows:

**JURISDICTION AND VENUE**

1. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1337 and 29 U.S.C. §1132(a)(1), (e), (t), and (g), of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1101. et. seq. (hereafter ERISA) as it

1 involves a claim by Plaintiff for disability benefits under an employee benefit plan  
2 regulated and governed under ERISA. Jurisdiction is predicated under these code  
3 sections as well as 28 U.S.C. §1331 as this action involves a federal question.

4 2. The events or omissions giving rise to Plaintiff's claim occurred in this  
5 judicial district, thus venue is proper here pursuant to 28 U.S.C. §1391(b)(2), and  
6 the ends of justice require it.

7 3. The ERISA statute at 29 U.S.C. §1133, in accordance with  
8 Regulations of the Secretary of Labor, provides a mechanism for internal appeal of  
9 benefit denials. Those avenues of appeal have been exhausted.

10 4. Plaintiff exhausted the appeal process on or about December 13, 2013,  
11 at which time she was informed that MetLife was upholding their decision to  
12 terminate her LTD benefits beyond January 6, 2012, and that she has the right to  
13 bring a civil action under section 502(a) of ERISA.

#### 14 GENERAL ALLEGATIONS

15 5. Plaintiff is informed and believes and thereon alleges that the PLAN is  
16 an employee welfare benefit plan established and maintained by Plaintiff's  
17 employer, Kaiser Permanente Health Foundation, Inc. (hereinafter referred to a  
18 "Kaiser"), to provide its employees with group long-term disability insurance, to  
19 pay a portion of a covered employee's income during a period of disability.

20 6. The PLAN can be sued as an entity pursuant to 29 U.S.C. §1132(d)(1).

21 7. Plaintiff is an individual citizen and resident of the State of California,  
22 County of Los Angeles, residing within the Central District of the State of  
23 California.

24 8. On information and belief, MetLife issued a policy that insures the  
25 PLAN and is contractually obligated to pay benefits for claims covered and  
26 approved through the PLAN.

27 \\\

28 \\\

**FACTUAL BACKGROUND**

9. At all times relevant hereto, Plaintiff, currently age 66, was employed by Kaiser as a registered nurse, and was and is a participant and beneficiary of the PLAN. Plaintiff worked in that capacity for Kaiser through September 14, 2011.

10. Plaintiff's long term disability began on September 15, 2011 due to diagnoses of panic disorder, agoraphobia, depressive disorder, spinal stenosis of the lumbar region, low back pain, cervical spinal stenosis, lumbosacral spondylosis, derangement of knee, tremors and ataxia, neuropathy/radiculopathy and joint pain of the shoulder.

11. After a 90-day elimination period, Plaintiff began receiving long-term disability benefits on December 14, 2011. Said benefits were received by Plaintiff through January 6, 2012 at which time MetLife terminated her long term disability benefits on the basis that her physical and psychological medical documentation did not demonstrate that she continued to satisfy the Plan's definition of disability.

12. On or about April 9, 2013, Plaintiff commenced her appeal with MetLife.

13. On December 13, 2013, MetLife denied her appeal based on the findings of both their physical and psychiatric independent physician consultants (IPC).

14. MetLife's IPC in physical medicine determined that the medical information contained in Plaintiff's claim file did not provide clinical evidence of functional restrictions and limitations that would prevent her from performing with reasonable continuity the substantial and material acts necessary to pursue her usual occupation in the usual and customary way beyond January 6, 2012.

15. Despite receiving information from Plaintiff's treating psychiatrist, Dr. Perrault in October 2013 that Plaintiff was bipolar and psychotic, at times, with "magical" thinking, MetLife's IPC in psychiatry concluded that the medical documentation on file would not support psychiatric functional limitations and

1 restrictions beyond January 6, 2012 and continuing.

2 16. Pursuant to the terms of the PLAN, "Totally Disabled" or "Total  
3 Disability" means: "During the Elimination Period and the next 24 months, You are  
4 unable to perform with reasonable continuity the Substantial and Material Acts  
5 necessary to pursue Your Usual Occupation in the usual and customary way."

6 17. Plaintiff was awarded Social Security Disability Benefits effective  
7 March 2012.

### 8 **COUNT ONE**

#### 9 **For Damages and Benefits Against Defendants**

#### 10 **METROPOLITAN LIFE INSURANCE COMPANY and KAISER** 11 **FOUNDATION HEALTH PLAN, INC., LONG TERM DISABILITY PLAN** 12 **(Pursuant to 29 U.S.C. Section 1132(a)(1))**

13 18. Plaintiff hereby re-alleges and incorporates paragraphs 1 through 17 as  
14 if fully set forth herein.

15 19. The LTD policy issued by MetLife has a certificate date of January 1,  
16 2010. The anniversary date upon which the policy renews is January 1<sup>st</sup> of each  
17 year thereafter.

18 20. The LTD policy issued by MetLife contains an express grant of  
19 discretionary authority that reads as follows:

20 "In carrying out their respective responsibilities under the Plan, the  
21 Plan administrator and the other Plan fiduciaries shall have  
22 discretionary authority to interpret the terms of the Plan and to  
23 determine eligibility for and entitlement to Plan benefits in accordance  
24 with the terms of the Plan. Any interpretation or determination made  
25 pursuant to such discretionary authority shall be given full force and  
26 effect, unless it can be shown that the interpretation or determination  
27 was arbitrary and capricious."

28 \\\

1           21. Plaintiff's claim is for non-vested employee welfare benefits, so the  
2 controlling plan is the one that existed at the time her ERISA cause of action  
3 accrued (which is when LTD benefits were finally denied on December 13, 2013).

4           22. *California Insurance Code* § 10110.6 expressly applies to renewals,  
5 including policies continued in force on or after the policy's anniversary date.  
6 Therefore, the express grant of discretionary authority will be null and void and the  
7 Court will apply a de novo standard of review.

8           23. The weight of the medical and vocational evidence in the  
9 administrative record supports a determination that Plaintiff cannot perform the  
10 material duties of any occupation.

11           24. While MetLife's home office is in Lexington, Kentucky, *California*  
12 *Insurance Code* § 10110.6 applies because Plaintiff is a California resident.

13           25. In the event that the court applies an abuse of discretion standard,  
14 Plaintiff alleges that MetLife has a conflict of interest because it is the claims  
15 administrator and the funding source of claims paid pursuant to the LTD policy that  
16 insures the PLAN.

17           26. In the event that the court applies an abuse of discretion standard, the  
18 MetLife claims decision was illogical, implausible, and/or without support in  
19 inferences that may be drawn from the facts in the record.

20           27. As a direct and proximate result of MetLife's wrongful denial of  
21 LTD benefits, Plaintiff contends that MetLife has breached the contract by not  
22 paying benefits, payable at the rate of \$4,013.76 per month, which includes  
23 appropriate offsets, from January 6, 2012 to the present and continuing.

24 \\\

25 \\\

26 \\\

27 \\\

28

28. As a further direct and proximate result of the denial of benefits, and due to MetLife's failure to pay benefits, Plaintiff had to engage the services of attorneys to assist her in recovering benefits due her under the terms of the PLAN. Accordingly, Plaintiff will be entitled to reasonable attorney's fees in an amount according to proof pursuant to 29 U.S.C. Section 1132(g)(1).

WHEREFORE, plaintiff demands judgment against Defendants, and each of them, as follows:

**Count One**

1. Damages for breach of contract pursuant to 29 U.S.C. Section 1132(a)(1)(B), for Long-Term Disability benefits payable at the rate of \$1,963.00 per month from November 6, 2013 to the present and continuing;

2. Interest on said amounts in accordance with law;

3. For reasonable attorney's fees and costs in a sum according to proof, pursuant to 29 U.S.C. Section 1132(g)(1).

4. For an order remanding the case back to the claim administrator to determine if Plaintiff is disabled from any occupation.

5. For any further relief that the court deems reasonable and just.

DATED: October 27, 2014

Respectfully submitted,

LAW OFFICES OF KEVIN ZIETZ

By: 

Kevin M. Zietz  
Attorney for Plaintiff  
CHRISTINE YEIGH